

CRT Forward

Tracking the Attack on Critical Race Theory



A Report from CRT Forward's Tracking Project
An Initiative of the Critical Race Studies Program



CRT Forward

The Tracking Project is a component of the CRT Forward initiative of the Critical Race Studies (CRS) Program at UCLA School of Law. This Report was written under the supervision of Taifha Alexander, CRT Forward Project Director, LaToya Baldwin Clark, Assistant Professor of Law, Kyle Reinhard, CRT Forward Fellow, and Noah Zatz, Professor of Law and architect of the Tracking Project. The Report represents the hard work of the CRT Forward Committee: Jasleen Kohli, CRS Program Executive Director and Professors Ahilan Arulanantham and Cheryl Harris. The support of CRS Program Coordinator Ayda Haghghatgoo, CRS Communications Specialist Alicia Hawkins, and the entire CRS faculty were also key to the project. We are also grateful for the assistance of UCLA Law Reference Librarian Lynn McClelland, Empirical Research Director Benjamin Nyblade, and Empirical Research Group Statistician Henry Kim, as well as UCLA undergraduate and law student research assistants Kaylee Blanco, Henry Cordova, Isabel Flores-Ganley, Chloë Freeman, Danielle Garcia, Charlene Kwan, Paton Moody, Nicole A. Powell, Sofia Pedroza, Fatima Rivera, Jenny Poretz, Natalia Ruvalcaba, and Milan Smith.

Authors

Taifha Alexander
LaToya Baldwin Clark
Kyle Reinhard
Noah Zatz

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About the Critical Race Studies Program

The Critical Race Studies (CRS) program at UCLA School of Law was the first law school program in the United States dedicated to incorporating Critical Race Theory (CRT) into legal scholarship and teaching. Led by world-renowned scholars, the CRS program has been dedicated to training practitioners, scholars, and advocates committed to advancing racial justice.

Land Acknowledgement

CRS acknowledges our presence on the traditional, ancestral, unceded lands, and waterways of the Gabrielino and Tovaangar peoples, past, present, and emerging. We are committed to actively engaging in learning about the history of the lands we occupy, how to be better stewards of them, and continue to honor, with intention and respect, the historical and current significance of the enduring relationship between the Gabrielino and Tongva peoples and the spaces CRS occupies.

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EXECUTIVE SUMMARY

Critical Race Theory (CRT) is an interdisciplinary practice and approach to understanding the foundations and maintenance of race and racial subordination in the legal system throughout history. Since its genesis in United States law schools in the mid-1980s, CRT has explored how racial, and other, hierarchies have persisted despite advancements in racial justice made during times like the Reconstruction and Civil Rights eras. CRT contests many of the standard assumptions underlying traditional civil rights discourse, including that the legal system is a neutral apparatus disconnected from the legacy of racial subordination in the United States. Since its inception, CRT has been, at times, questioned and attacked by some in conservative media and academia.

Why does racial inequality persist in a society that has explicitly condemned racism and has repeatedly adopted laws and policies intended to eliminate it?

That question is the focus of Critical Race Theory (CRT). Drawing on research in history, social sciences and humanities, CRT demonstrates how laws and policies can reproduce racial inequality even when those policies and practices are adopted without explicit racial bias. CRT is thus an important tool to evaluate and support the United States' ongoing efforts to achieve a robust multiracial democracy.

But since the waning days of the Trump Presidency and through the present, CRT has been under an unprecedented assault. The summer of 2020's mass mobilization against police violence and anti-Blackness threatened a racial reckoning, where various governmental officials, non-profit leaders, school boards and businesses declared anti-racism a core value. In response, in September 2020, the then-President released an Executive Order (E.O.) banning so-called "divisive concepts," concepts that conservative operatives organized under the banner of "CRT." Since then, conservative law and policymakers nationwide have sought to legislate or otherwise act legally to target their misrepresented version of "CRT" and its alleged offshoots.

In August 2021, the Critical Race Studies Program at UCLA School of Law (CRS) created CRT Forward as a part of our organizational and intellectual work. This document reports on CRT Forward's flagship initiative: the Tracking Project. The Tracking Project has identified, cataloged, and analyzed over 560 instances of government anti-"anti-racism" measures that were introduced September 2020 through December 31, 2022. Measures include legislation, executive orders, state attorney general opinion letters, state and local school board policies, resolutions, agency guidance and law and policymaker statements. In order to provide a comprehensive account of the scope and impact of anti-"CRT" governmental action, our database includes legally binding as well as advisory and hortatory measures to capture all anti-"CRT" activity at the governmental level. These measures emanate from all levels of government, federal, state, and local.

At present, our Project is the only database that tracks anti-"CRT" measures over a wide range of government actions beyond proposed legislation alone and does so across the federal, state, and local levels. In this process, our team broadly relies on two strategies: (1) performing regular direct searches in state and federal legislative databases, and (2) monitoring media references in over 4,000 U.S. newspapers and sources like daily transcripts of cable news programs. Since September 2020 and years-end 2022, our team screened more than 30,000 media articles. This latter step is unique to our Project and has allowed us to gain a far more robust picture of the full extent of (especially) local activity than has previously been reported (Part II.A.1 describes the Project's methodology).

Before the debut of the Tracking Project, the pervasiveness of the assault on CRT was unclear. This Report presents, for the first time, a snapshot of activity that made headlines and continues to affect millions.

Between January 1, 2021 and December 31, 2022, government actors (federally and across 49 states and their localities) introduced a total of 563 anti-"CRT" measures, 241 of which have been enacted or adopted (Tables 1-3). The momentum of the anti-"CRT" campaign has to this point shown no signs of slowing: indeed, nearly the same number of measures were introduced in 2021 (280 total) and 2022 (283

total). The prevalence of measures originating in state governments has remained virtually the same in 2021 (173) and 2022 (178), while local activity has grown even more frequent year over year (rising from 80 new measures in 2021 to 97 in 2022).

From this data, this Report details **five trends** from the first two years of the crusade against “CRT.” All trends are discussed in more detail in Part II.A.2.

1. ***Despite its short life, the Executive Order has a strong legacy.*** Even though Executive Order 13950 was rescinded only a few months after its release, its language permeates all forms of anti-“CRT” activity, most prominently in introduced measures that target so-called “divisive concepts” (**Tables 4-5**). Among all introduced measures, 41% seek to regulate at least one form of subject matter first listed and defined in E.O. 13950 as being a “divisive concept.” Of the 563 introduced measures, 21% limit instruction on “divisive concepts” generally, while 41% (229 of 563) prohibit instruction on the “divisive concept” that “an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex,” and 33% (187 of 563) forbid instruction on the “divisive concept” that “any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex.” Although not named in the E.O., an explicit ban on “Critical Race Theory” appears in 35% (200 of 563) of introduced anti-“CRT” measures. Of the 241 adopted measures, 45% of them target “Critical Race Theory.” (108 of 241).

2. ***The activity is widespread but unevenly distributed across government levels and state political identity.*** As of December 31, 2022, lawmakers in 28 states have adopted at least one anti-“CRT” measure at the state level, including attorney general letters, executive directives, legislation, policies, regulations, resolutions, and statements. Of those 28 states, 16 have specifically enacted anti-“CRT” legislation. In 2021 and 2022, in every state except Delaware, government officials have introduced at least one anti-“CRT” measure at some level (**Tables 6-8**). Of the 528 measures introduced at the state and local level state and local officials in the 25 red

states have introduced more measures (63%, 331 of 528) than those in the 20 blue (21%, 110 of 528) and five purple (16%, 87 of 528) states. Of the 331 measures introduced or released in red states, anti-“CRT” measures proliferate primarily in state legislatures (261 of 331), compared to only 70 red-state measures introduced locally. In blue and purple states, measures introduced by local government officials predominate: in blue states, 62 of the 110 introduced measures are local, while in purple states, 45 of the 87 introduced measures are local.

Blue-state law and policymakers are less effective than red and purple state law and policymakers at moving anti-“CRT” measures from introduction to adoption; blue-state lawmakers and red-state lawmakers have respectively successfully adopted approximately 40% of their state and local measures. Purple-state lawmakers are more effective than blue-state and red-state law and policy makers; 59% (51 of 87 introduced purple-state measures) have been adopted or enacted. That purple-state total exceeds the 44 measures adopted by the 22 blue states combined.

In blue-state state legislatures, only 10% (5 of 48) anti-“CRT” measures have been adopted while blue-state local government have enacted 62% (39 of 62) of introduced anti-“CRT” measures. Part II.B. of this report explores California as a case study illustrating a pattern found in blue states; all anti-“CRT” measures in California introduced by local policymakers were in counties that are more conservative than the state at large (**Table 13**). As of December 31, 2022, seven of 11 measures introduced in California school districts have been adopted, affecting approximately 110,000 students statewide.

3. ***The measures focus primarily on K–12 schools and colleges and universities.*** Anti-“CRT” measures and rhetoric have propagated nationwide, especially those targeting K–12 schools and institutions of higher education. (**Table 9**). Ninety-one percent of all introduced measures (513 of 563) and 94% of all enacted measures (226 of 241) include as targets K–12 education and almost 20% of introduced measures (110 of 563) and 12% of enacted measures (29 of 241) target institutions

of higher education. Adopted anti-“CRT” measures targeting K-12 schools affect over 22 million public school children, almost half of the country’s 50.8 million public school students. And while individual measures aimed at systems of higher education are less numerous than those targeting local school districts, such measures impact hundreds of thousands of college and graduate students.

4. Measures targeting K-12 schools regulate curriculum and classroom lessons. Of the 513 introduced measures targeting K–12 schools, 73% (372) regulate classroom teaching, and 75% (384) regulate curricular materials. Please note that many of the measures target both. **(Tables 10 and 11).** Of the 226 adopted measures targeting K–12 schools, 65% (147) regulate classroom teaching, while measures that restrict curricular choices account for 76% of adoptions (172). In addition, of the 513 introduced measures targeting K–12 institutions, 147 (29%) affirmatively require school districts to allow parents to surveil curriculum, and 41 (28%) of those introduced measures have been adopted. Measures that provide for educational “opt-outs” (17 enacted v. 35 introduced measures) or concerning “forbidden books” (23 enacted v. 33 introduced) are less common.

5. One-third of introduced state legislative measures specify withholding funding as a consequence for violations. Among the 308 introduced state legislative measures, at least one-third (101) propose withholding funding from teachers, schools, and districts for alleged violations **(Table 12)**. In addition, 14% (46) propose a private cause of action by which individual citizens may sue district officials and teachers (among others) for alleged noncompliance.

The findings in this Report suggest that the anti-“CRT” movement is not stagnating; indeed, government officials at all levels are introducing an equal or greater number of measures in 2023 as they did in 2021 or 2022. The CRT Forward Tracking Project will continue to compile, track, and analyze these efforts to aid researchers, advocates, and activists in resisting this current attack.





INTRODUCTION

On June 3, 2020, just days after national protests following the murder of George Floyd, Dr. James Whitfield, the first Black principal at Colleyville Heritage High School in the Grapevine-Colleyville School District near Dallas-Fort Worth, emailed his school community. In that email, he expressed his view of the importance of education in the fight against racism. He shared his hopes that students and parents would “commit to being an anti-racist,” as societal racism is “alive and well.”¹ However, “[e]ducation,” Dr. Whitfield said, “is the key to stomping out ignorance, hate, and systemic racism. It’s a necessary conduit to get ‘liberty and justice for all.’”² The immediate community response was positive; Whitfield called it a “powder keg of inspiration.”³ But just over a year later — and following the outbreak of a coordinated nationwide campaign against Critical Race Theory — local activists turned the email against him. Whitfield became a casualty in the fight over “Critical Race Theory.”

Dr. Whitfield was hired by the district three years earlier, and the district promoted him twice, lastly to the principalship. The Colleyville-Heritage community, including students, believed Dr. Whitfield exceeded expectations in his roles; in September 2021, over 100 students walked out of class to protest his treatment by the district.⁴ But not all segments of the Colleyville community felt positively toward Dr. Whitfield. Following his hiring as principal at a local middle school, for example, District administration requested Whitfield take down a photo from his personal social media of him and his wife, a white woman, celebrating their wedding anniversary. “Is this the Dr. Whitfield we want as an example for our students?” one parent complaint read. Whitfield thought the concern was that he was in an interracial marriage.⁵

Public school principals “often are the first to hear community complaints and concerns” across entire school populations, which gives them “unique first-hand knowledge” and experience into “how various community pressures manifest in schools.”⁶ At Colleyville Heritage, these manifestations coalesced

into a personalized attack on Dr. Whitfield; there and elsewhere, they create a “chilling effect — in the form of pressure to avoid discussing race and racism in general.”⁷ On July 26, 2021, during a meeting of the Grapevine-Colleyville School Board, Stetson Clark, an unsuccessful school board candidate, took the podium and attacked Whitfield by name multiple times, despite being told this was against the rules and to stop.⁸ He spoke to approving hollers and cheers to “fire him!” from the crowd.⁹

Referencing statements from Whitfield’s previously-uncontroversial email, Clark charged Whitfield with promoting “Critical Race Theory” and the “conspiracy theory” of systemic racism. “Because of [his] extreme views,” Clark told the Board of Trustees in closing, “I ask that a full review of Mr. Whitfield’s tenure be examined and that his contract be terminated effective immediately.”¹⁰

Without more, the School Board initiated a review, and Dr. Whitfield then became the target of threats and harassment, some of it highly racialized. When Whitfield asked for modest protections against one particularly vocal critic (specifically, that the person be barred from school grounds), the school board declined his request.¹¹ Whitfield took to social media to complain about the attacks and racial abuse; the School Board took exception to Whitfield’s complaints and use of social media because his supposed “dishonesty with the media” had brought negative attention to the district.¹²

At a Board meeting held September 20, 2021, school district official Gemma Padgett announced the Board had voted 7-0 to formally propose Whitfield’s termination for being “disrespectful, unreasonable, and insubordinate.”¹³ “Dr. Whitfield has diminished his effectiveness by dividing large segments of the community,” Ms. Padgett stated.¹⁴ At the public meeting held shortly before this final determination, Stetson Clark took centerstage to address the crowd once more. “We got here through critical race theory, social-emotional learning and equity, whatever you want to label it. It is my sincere hope that this board will continue to remove this divisive ideology from our district.”¹⁶

How did “we get here” indeed? What transpired to result in charges being brought against a competent educational leader, leading to his ultimate dismissal? How in a little over a year did a statement affirming anti-racism and the importance of education morph into evidence of insidious efforts to bring conspiratorial ideas like “systemic racism” into the classroom? Why did the label “Critical Race Theory” suffice to induce an investigation in the first place? What is a “divisive ideology”? Or a divisive concept? How do these different frameworks — CRT, socio-emotional learning, and equity — qualify for the label? This Report seeks to illuminate some answers to these questions.

The ouster of Dr. Whitfield for allegedly promoting Critical Race Theory occurred a scant year and half following the emergence of the largest social movement against racism in modern history. In the middle of at the Covid-19 pandemic, millions of people worldwide took to the streets to protest ongoing racialized state violence against black people. The precipitating event was the murder of George Floyd by Minneapolis Police officers, captured on a searing video that was viewed around the world. Floyd’s murder, along with that of Breonna Taylor and others, catalyzed a broader critique of policing that went beyond rooting out the “bad apples,” and importantly, a deeper critique of racism that went beyond the search for individual bad actors.

After social media outlets widely shared the graphic video of George Flyod’s death, and as awareness of Breonna Taylor’s death proliferated, protests erupted in Minneapolis and nationwide. Protestors marched in more than 2,000 cities and towns during the summer of 2020, and the movement quickly spread to other parts of the world.¹⁸ Protesters soon broadened the movement’s scope and demanded a racial reckoning a wholesale redistribution of resources and power. Despite the risk of contracting a virus we then knew very little about, protestors sustained their mobilizations over several months.

Media coverage of the protests was polarized. While left-leaning media outlets focused on the underlying causes of the protest and their overwhelming peaceful

character, conservative media outlets inundated their consumers with the rhetoric of “riots,” including images of arson and property destruction. Soon they began to focus on what they called a “malign ideology”²⁰ allegedly motivating the protests. On September 2, 2020, a Fox News interview with conservative operative Christopher Rufo sparked the then-President’s attention. In it, Rufo declared “Critical Race Theory” to be the ideological catalyst of the riots and subsequent anti-racism efforts and a threat to American core values. Fifteen days later, in a televised press conference,²¹ then-President Donald Trump used these talking points to explicitly denounce a misinformed version of “CRT,” with little evidence that he knew anything about CRT before September 2.²²

On September 22, 2020, Trump released (the now-rescinded) Executive Order 13950 (“the E.O.”), “[O]n Combatting Race and Sex Stereotyping.”²⁵ While the E.O. does not itself name CRT, the context makes clear Trump had CRT in mind when declaring that a “malign ideology is now migrating from the fringes of American society and threatens to infect core institutions of our country.”²⁶

In August 2021, with support from UCLA School of Law and Lumina Foundation, the CRS Program launched CRT Forward to map and analyze the anti-“CRT” efforts. CRT Forward aims to address the attacks, correct the misinformation circulating, and help plot a path forward for educators and activists who want to protect the rights to speak truthfully about race, racism, and systemic disadvantage.

The Project’s mission, broadly, is to document the magnitude, substance, and evolution of the activity resulting from this ongoing campaigning to reject “CRT.” The Tracking Project, CRT Forward’s flagship initiative, has created a publicly-accessible, comprehensive database intended to increase awareness of the source and nature of this attack on CRT and anti-racist education, and support additional research and analysis resulting from this ongoing campaign against CRT and anti-racism.

This Report presents insights gleaned from the Tracking Project. It proceeds in two parts. First, it describes the formal attack which culminated in the release of the E.O. on September 20, 2020. Second, this Report presents trends to illustrate the widespread and varied anti-“CRT” activity.

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* We use quotation marks intentionally here. When used in quotations, “CRT” refers to the inaccurate, disinformation umbrella term being employed in the activities we track. By using quotation marks, we deny that what is being described as “critical race theory” is actually Critical Race Theory. We also use “divisive concepts” in quotes to be clear that we are referring to the definition employed in E.O. 13950 and not our own terminology. We also use “divisive concepts” in quotes to highlight how the named concepts are not divisive at all, as no one who claims to be anti-racist would positively ascribe to those beliefs. We also deny that Critical Race Theory incorporates any of the concepts being described as “divisive.”

I. THE ATTACK

A. Disinformation

In early July 2020, writer-documentarian Christopher Rufo, now a Senior Fellow at conservative think tank the Manhattan Institute, obtained leaked anti-bias training documents from the Office of Civil Rights for the King County Executive's Office in Seattle, WA.²⁷ The training materials — which Rufo later described to his 13,000 Twitter followers as “explosive”²⁸ — contained references to several academic terms of art and concepts like “whiteness” and “white privilege” as part of a presentation designed to facilitate “build[ing] skills and relationships that help us show up more fully as allies and accomplices for racial justice.”²⁹ While scouring the endnotes of these trainings and other materials written by authors popularly associated with the anti-racism movement, Rufo says he found consistent references to CRT, and especially the work of Professors Derrick Bell and Kimberlé Crenshaw.³⁰

In “Critical Race Theory,” as Rufo tells it, he discovered the “perfect villain” for his *anti-anti-racism* project:

[M]ost middle-class Americans, including racial minorities, see the world as ‘creative’ rather than ‘critical,’ ‘individual’ rather than ‘racial,’ [and] ‘practical’ rather than ‘theoretical.’ Strung together, the phrase ‘critical race theory’ connotes hostile, academic, divisive, race-obsessed, poisonous, elitist, anti-American.³¹

In other words, Rufo combined three words to create the term “critical race theory,” intentionally far from an accurate description of “Critical Race Theory.” Furthermore, most items now being publicly labeled as “Critical Race Theory” are things that “no [theorist] would sign on to,” and many of them are “simply about racism.”³² But given CRT’s origins in law schools, the general public’s familiarity with it was exceedingly limited. In a series of tweets in March 2021, Rufo admitted that misinformation was part of the campaign. He boasted:

[w]e have successfully frozen their brand — “critical race theory” — into the public conversation and are steadily driving up negative perceptions. We will eventually turn it toxic, as we put all of the various cultural insanities under that brand category. The

goal is to have the public read something crazy in the newspaper and immediately think “critical race theory.” We have decodified the term and will recodify it to annex the entire range of cultural constructions that are unpopular with Americans.³³

Once this labeling gained a platform with the then-President, Rufo’s approach bore fruit, beginning with Executive Order 13950.

B. Executive Order 13950

On September 2, 2020, Rufo appeared in a three-minute segment on the Fox News program *Tucker Carlson Tonight* to discuss the dangers of his version of “critical race theory” and its pervasiveness in the federal government. After calling “CRT” an “existential threat” to the country that is “weaponized” against “core American values,” Rufo addressed Trump directly:

I’d like to make it explicit: The President and the White House — it’s within their authority and power to immediately issue an executive order to abolish critical race theory training from the federal government. And I call on the President to immediately issue this executive order — to stamp out this destructive, divisive, pseudoscientific ideology at its root.³⁴

The following day, Trump’s then-Chief of Staff Mark Meadows contacted Rufo saying the President had watched *Carlson* and wanted Rufo’s assistance in drafting an executive order to excise “CRT” from the work of federal agencies and contractors. Within days, Rufo and a team of “respected scholars and journalists” flew to Washington, D.C. to help “fine-tune” an executive order fashioned after Rufo’s Fox News stump speech.³⁵ Following the September 17 news conference, at which Trump had explicitly denounced “CRT,” on September 22, 2020 the then-President issued Executive Order 13950; six days later, on September 28, 2020, the Office of Management and Budget (OMB) released a memo directing the heads of federal agencies to investigate any trainings that included specific terms, of which “critical race theory” was one.³⁶

The E.O. contained ten sections. Section 1 began by claiming itself to be in the legacy of the “battlefield of Gettysburg to the bus boycott in Montgomery and the Selma-to-Montgomery marches.”³⁷ The Order coopted

MLK's Dream into its own definition of "the inherent equality of every individual," requiring one not be judged "by the color of their skin but by the content of their character."³⁸ This version of "equality," the E.O. stated, required "colorblindness," against which stood "a different vision of America . . . grounded in hierarchies based on collective social and political identities rather than in the inherent and equal dignity of every person as an individual."³⁹ The E.O. claimed that this "destructive ideology is grounded in misrepresentations of our country's history and its role in the world";⁴⁰ our "Founding documents," the E.O. incorrectly stated, "rejected . . . racialized views of America."⁴¹

The objectionable ideology, the E.O. claimed, was now "migrating from the fringes of American society and threaten[ing] to infect core institutions of our country," including the federal government.⁴² It alleged, without evidence, several instances of federal employment training that "men and members of certain races, as well as our most venerable institutions, are inherently sexist and racist."⁴³ It claimed these supposed trainings "perpetuate[] racial stereotypes and division and can use subtle coercive pressure to ensure conformity of viewpoint,"⁴⁴ and "have no place in programs and activities supported by Federal taxpayer dollars."⁴⁵ As a result, the E.O. proclaimed, "the policy of the United States [is] not to promote race or sex stereotyping or scapegoating."⁴⁶

The remaining sections of the E.O. provided specific requirements for the military (Section 3), federal contractors (Section 4), federal grants (Section 5), and federal agencies (Section 6); in addition, it provided for the Office of Management and Budget's review of agency trainings (Section 7).⁴⁷ Finally, the E.O. instructed the Attorney General (A.G.) to assess whether prohibited trainings could contribute to a "hostile work environment," giving rise to a violation of Title VII, the federal law against employment discrimination. It also directed the A.G.'s office to promulgate guidance to agencies on how to "promot[e] diversity and inclus[ion]" without running afoul of Title VII (Section 8).⁴⁸ Most enduringly, however, were Section 2's definitions of so-called "divisive concepts."

The E.O. forbade agencies and contractors from "teach[ing], instruct[ing], or train[ing]" federal employees or contractor employees "to believe any of the divisive concepts" described in Section 2.⁴⁹ It defined so-called "divisive concepts" as the beliefs that:

(1) one race or sex is inherently superior to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (6) an individual's moral character is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term 'divisive concepts' also includes any other form of race or sex stereotyping or any other form of race or sex scapegoating."⁵⁰

Of course, none of these so-called "divisive concepts" are truly divisive; they would fall under an elementary understanding of overt racism. Critical Race Theory espouses none of these concepts.

Nevertheless, the E.O. had immediate consequences. For example, in November 2020, Stanford University released a "Checklist to Evaluate Diversity Training to Comply with Executive Order 13950."⁵¹ This checklist directed trainers to mark yes or no if the training contained any "Prohibited Content and Examples." This prohibited content included making "[a]ny reference[s]" to "structural or systemic racism," "reparations," or "implicit bias resulting in systemic discrimination," or stating that "[s]ystemic racism exists at Stanford."⁵² Stanford later rescinded the checklist, apologizing for its release without the "necessary review and approval" and stating that the checklist gave the "the erroneous impression that Stanford seeks to eliminate discussion of topics, such as systemic racism and implicit bias, that are widely understood to be based in historical fact and are evidenced in the work of scholars at Stanford and beyond."⁵³ This example shows how the E.O. sparked widespread concern about the legality of anti-racism efforts.

Checklist to Evaluate Diversity Training to Comply with Executive Order 13950

Please list Yes/No against each statement if any content in the training, workshop or program has the following:

Prohibited Content and Examples	Yes/No
<p>One race or sex is inherently superior to another race or sex</p> <p><i>Example – White men are superior</i></p>	
<p>That the United States is fundamentally racist or sexist</p> <p><i>Example: Any reference to structural or systemic racism. Systemic racism exists at Stanford</i></p>	
<p>An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously</p> <p><i>Example – Whites or White men as uniformly having unconscious bias against other races/ethnicities/genders</i></p>	
<p>An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex</p> <p><i>Example: Members of minority groups or women do not have or less commonly have unconscious biases</i></p>	
<p>Members of one race or sex cannot and should not attempt to treat others without respect to race or sex</p> <p><i>Example: You can help Black staff because of your race. You should affirmatively/actively try to help Black staff</i></p>	
<p>An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.</p> <p><i>Example: Any reference to reparations, implicit bias resulting into systemic discrimination. White people are inherently racist and morally responsible for historical and current racism and should be ashamed</i></p>	
<p>Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race;</p> <p><i>Example: Any reference to white privilege that can result into micro-aggression or a specific race or sex are better performers than others such as men are more productive than women</i></p>	

C. The Campaign

Moms for Liberty (“M4L”) was founded on January 1, 2021 by a trio of former and current Florida school board members (Tiffany Justice, Tina Descovich, and the since-disaffiliated Bridget Ziegler). Organizations like M4L — most that style themselves as “parents’ rights”-focused — have been instrumental in morphing Rufo’s initial disinformation efforts into a full-blown, coordinated nationwide campaign whose momentum has still yet to slow.

M4L claims to be devoted to “fighting for the survival of America” and “stok[ing] the fires of Liberty” by “organiz[ing], educat[ing] and empower[ing] parents to defend their parental rights at all levels of government.”⁵⁴ Same as Rufo before them, the leaders of M4L quickly did their rounds across conservative media, including making appearances on shows like *Tucker Carlson Tonight*, the *Glenn Beck Program*, and the *Rush Limbaugh Show*.⁵⁵ By the end of their first year in existence, at the close of December 2021, M4L consisted of 165 chapters across 33 states and more than 70,000 members, a number they say has since swelled to over 100,000 in 42 states.⁵⁶ This meteoric launch to prominence led to speculation that the group is funded by dark money and decidedly non-grassroots in nature; in response to such claims, Descovich has said that “I don’t know the Koch Brothers. I actually Googled them for the first time the other day. We do sell a lot of T-shirts.”⁵⁷

Descovich’s unassuming posturing aside, as reporting in the *Florida Phoenix* puts it, Justice and Descovich are both “political strategists, risk managers and communications professionals — high-powered women with connections to top state and national Republicans.”⁵⁸ As a result, M4L quickly became key allies and pushers of conservative power, and anti-“CRT” rhetoric and policy was disseminated in individual school districts nationally by organizationally-motivated parents. Political Action Committees (PACs) like the 1776 Project formed to be “dedicated to electing school board members committed to abolishing CRT from the public school curriculum.”⁵⁹ The 1776 Project PAC boasted online that its candidates won 71% of their races, including the biggest win, flipping the Miami-Dade County school board red.⁶⁰

Political strategists, not typical parents, fought hardest to keep “CRT” in the spotlight on the belief that it would drive turnout for down-ballot races.

The deployment of anti-“CRT” language and rhetoric has not been limited to school board races, of course. Reporting in *Education Week* found “a long list” of individuals and organizations who worked “to get ‘Critical Race Theory’ into state legislators’ sights” and made the subject of prolonged, widespread public debate, “with the understanding that it was an issue that could mobilize parents — that is, voters.”⁶¹ **In other words, political strategists, not typical parents, fought hardest to keep “CRT” in the spotlight on the belief that it would drive turnout for down-ballot races.**

D. Model Legislation

Unsurprisingly, Joe Biden rescinded the E.O. in January 2021. But in the time after Trump’s 2020 election defeat, the ex-president’s allies and former admin officials quickly made moves to create and build up a “network of think tanks and donor groups dedicated to continuing to advance his policy agenda”; for several of these organizations, “CRT” became a “central issue.”⁶² For instance, Russ Vought — director of the Office of Management and Budget when the OMB memo on Critical Race Theory was released — himself started two such groups immediately after departing the White House in January 2021, a Capitol Hill think tank called the Center for Renewing America and a “companion,” “grassroots” advocacy organization named *Citizens for Renewing America* (“CFRA”).⁶³

After the E.O.’s revocation, CFRA and similar groups began spreading its content widely in model state legislation, school board policies, and proposed curricula. Conservative think tanks and organizations like the Heritage Foundation,⁶⁴ the Woodson Center,⁶⁵

the Alliance for Free Citizens,⁶⁶ and the Manhattan Institute have all released their own sample bills.⁶⁷ Representative of the trend, the Manhattan Institute’s model (“*How to Regulate Critical Race Theory in Schools: A Primer and Model Legislation*”) contains easily-accessible boilerplate language which in large part mirrors the E.O. The Manhattan Institute’s model bill “focuses on four core concepts” which were “distilled from” then-extant “state bills on the subject”: that the U.S. is “fundamentally and irredeemably racist or sexist”; that individuals are “inherently racist, sexist, or oppressive” by virtue of race or other intrinsic characteristics; that individuals are personally “responsible for actions committed in the past by other members of the same” race; and that individuals’ “moral character is necessarily determined” by race.⁶⁸ With persistent pressure from newly formed anti-“CRT” organizations, the model bills have kept “CRT” squarely in the national spotlight and the subject of feverish debate.

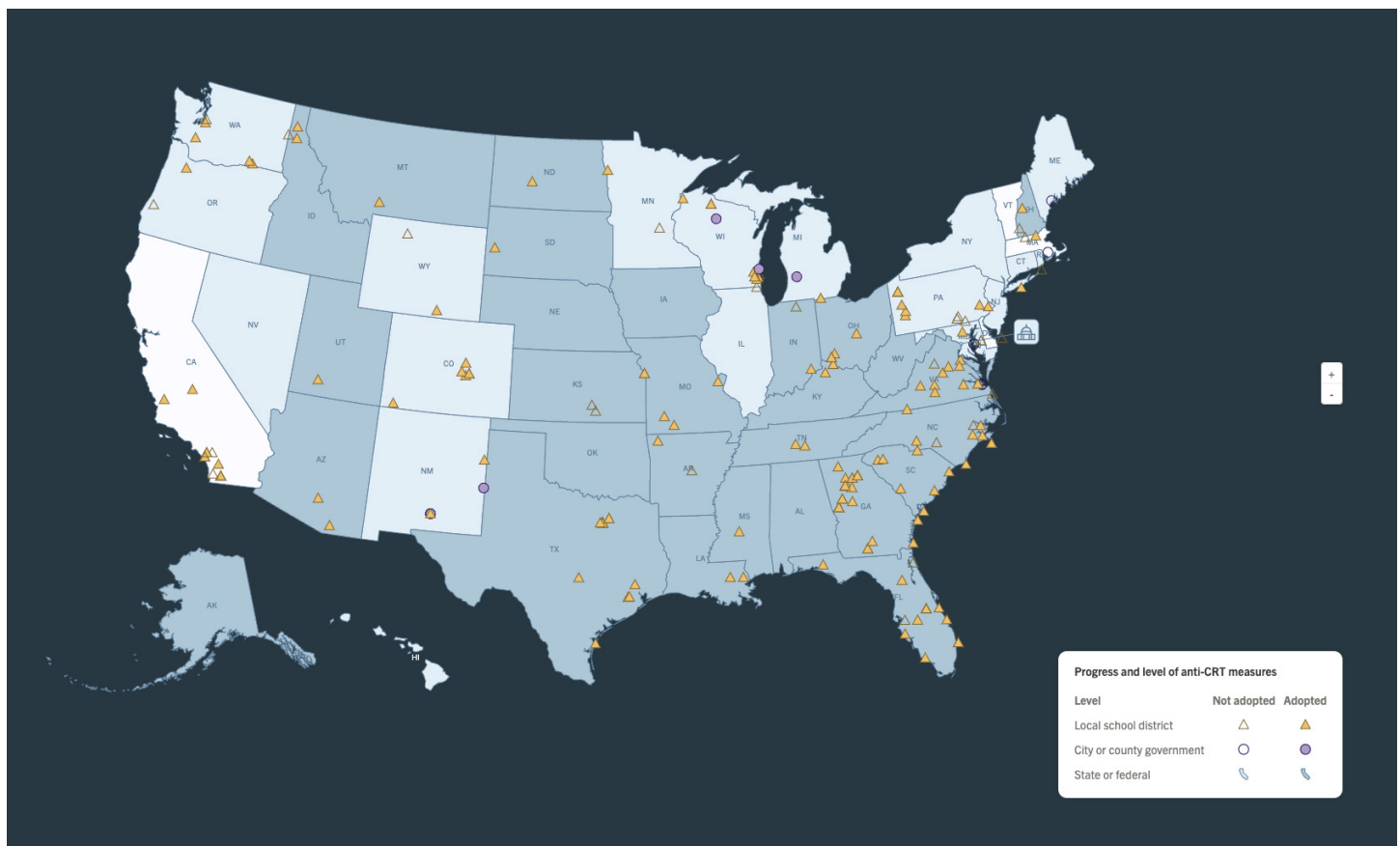
II. TRACKING THE ATTACK

A. The Tracking Project

Before the debut of the Tracking Project, the pervasiveness of the assault on CRT was unclear. Today, we are closer to clarity. Our Tracking Project team — including CRS faculty and staff, research librarians, and law school and undergraduate research assistants — has identified, examined, and followed the progress of reported-on and publicly-available official measures linked to the anti-“CRT” movement.

Presently, the Project is the only database that tracks measures at all levels of government and over a wide range of official actions, not only proposed legislation. Using extensive search methods, our team has identified over 563 discrete “activities” introduced

Map of Anti-“CRT” Measures in the United States



by law and policymakers after the E.O.'s release in September 2020 through December 31, 2022.⁶⁹ As of the end of 2022, 240 have been enacted or adopted.

Beyond identifying and tracking these measures, our team analyzes and codes the substantive content to distinguish the (a) type of *conduct* that is either prohibited or required;* (b) type of *institution* targeted; (c) specific *features* of the conduct targeted;† and (d) consequences for non-compliance used to enforce the conduct.‡ This coded data is a public resource accessible via an interactive map that allows users to filter for content along multiple axes and to view the results in either map or table form. Additionally, the Tracking Project provides users with links to the official text of each measure (for instance, directly to a PDF of the legislative record, school board meeting minutes, or statute) and, where available, any publicly-accessible sources for status updates.⁷⁰

1. Methodology

The Tracking Project team systematically monitors and codes this multimodal activity that law and policymakers introduced or released beginning after Trump released the E.O. Given the unusual origins of the attacks and the public distortion of Critical Race Theory, anti-“CRT” measures manifest in several forms. In addition to those measures that explicitly ban “Critical Race Theory,” we track bans that align with the E.O.'s so-called “divisive concepts.” To accurately identify and track these measures, the Project team uses complementary specialized search strings in legal and newspaper databases to discover the most common variations of rhetoric and language.

The team uses two strategies to identify the relevant anti-“CRT” activity: direct searches in state and federal legislative databases, and media references. The first strategy is straightforward. The second is unique to the Tracking Project. The team runs search strings in legal/news databases, Westlaw and Lexis, targeting a wide swath of terms and phraseology linked to anti-“CRT” activity.⁷¹ These searches of over 4,000 U.S. newspapers and media sources includes content like

daily transcripts of cable news programs. Each media result, or “article,” is reviewed individually by Project staff. Prior to the public debut of our online database in March 2022, our team screened the full backlog of more than 12,000 media articles — including those predating the launch of our systematic tracking efforts — which were published between September 2020 and November 2021. Thereafter, from November 2021 through the present, the team has screened, on average, 350-500 newly-released articles each month. This search process has allowed us to identify a significant portion of possible local activity. However, as a result of relying on media to identify many local campaigns, the database likely understates the prevalence of anti-“CRT” measures, especially at the local level.

When our team identifies a new instance of anti-“CRT” activity, we (1) create an entry in the Tracking Project database containing links to a publicly-accessible official source for the measure and any available progress/status updates, and (2) code the measure to display targeted content. Thereafter, subsequent media screens may again uncover this same measure (for instance, as local journalists cover a bill's movement through the legislative process); if our team determines such a measure is already listed in the Tracking Project database, we update its progress where applicable. Then, every two to four weeks, Project team members review measures which have not yet reached a final disposition appropriate for that measure and update the measure's status as needed. The Tracking Project researchers stop tracking measures once they reach a final disposition of *adopted*, *withdrawn*, *expired*, *revoked*, or *failed*. Bills that do not yet have a final disposition are discoverable as “introduced,” meaning they are still pending. Non-legislative and nonregulatory measures may be considered “adopted” as soon as they are introduced because there is no further process needed for the measure to take effect. The Tracking Project notes the date of the most recent progress check.

The Tracking Project database contains only formal government actions; while team members frequently

* This includes prohibiting/compelling/surveilling conduct related to “CRT” in classroom instruction and curriculum more broadly; restricting access to certain books; and allowing parents to “opt-out” to keep their kids from receiving certain education.

† For example, instruction that “the U.S. is fundamentally racist.”

‡ By, for example, withholding funding, revoking or denying tenure, or creating a private cause of action for individuals to sue teachers/schools/districts who are disseminating “CRT.”

screen “unofficial” aspects of the controversy (for instance, articles from local journalists referencing comments made by townspeople at school board meetings espousing anti-“CRT” sentiment that is unlinked to actual proposed actions), this content is not represented in this Report’s scope.

2. Trends

First, an overall snapshot. In 2021 and 2022, government actors (federally and across 49 states⁷²) have introduced 563 anti-“CRT” activities, including executive directives, legislation, attorney general letters, regulation, resolutions, official statements and educational policies. These activities have been introduced or released relatively evenly⁷³ between 2021

and 2022. **Table 1** describes the distribution of types of activities⁷⁴ tracked by the Project.

As **Table 1** shows, legislation comprises 55% (308 of 563) of all tracked activity. Unsurprisingly, legislation concentrates at the state level, with state lawmakers introducing 276 bills (89% of all legislation).

At the local level, excluding the above legislation, the Project has identified 177 directives, policies, regulations, resolutions, and statements, representing 31% of all measures tracked. This count likely underestimates the pervasiveness of anti-“CRT” measures at the local school board level.⁷⁵ Policies (92) and resolutions (56) are by far the most common exercises of local authority, followed by statements (26).

Table 1. Anti-“CRT” Activities Tracked

Type	Federal	State	Local	Total
Attorney General Letter	0	4	0	4
Exec Directive	0	9	1	10
Legislation	32	276	0	308
Policy	0	9	92	101
Regulation	0	7	2	9
Resolution	3	7	56	66
Statement	0	39	26	65
Total	35	351	177	563

Table 2 shows the even activity distribution between 2021 and 2022.

Table 2. Introduced Activities, 2021 and 2022

	2021	2022
Federal	27	8
State	173	178
Local	80	97
Total	280	283

In 2021, federal officials introduced 27 anti-“CRT” measures, state actors brought 173, and local policymakers 80. In 2022, state and local measures approximated 2021’s corresponding anti-“CRT” activities. **State and local measures were introduced**

State and local measures were introduced at virtually identical rates between

2021

(173 state and 80 local)

and

2022

(178 state and 97 local)

at virtually identical rates between 2021 (173 and 80) and 2022 (178 and 97). This finding is significant because it shows that the legislative process extends beyond the media frenzy. Cumulatively, federal measures decreased from 2021 (27) to 2022 (8).

Table 3 illustrates the current progress of all measures to date.

Table 3. Progress of Introduced Measures			
Type	2021	2022	Total
Enacted or Adopted	130	111	241
Pending	15	39	54
Rejected	31	18	49
Expired or Withdrawn	104	115	219
Total	280	283	563

As **Table 3** shows, of 563 introduced measures, 241 (43%) have been enacted, 54 (10%) are pending, 49 (9%) have been officially rejected via vote, and 219 (39%) either expired during the legislative process or were otherwise withdrawn by their authors.

In the following, we present five key findings in our analysis of anti-“CRT” measures in the two years since the campaigns began. Remember that “measure” includes more than legislation and regulation. The term also includes executive directives, attorney general letters, resolutions, official statements, and educational policies. Indeed, legislation comprises only 55% of total measures tracked by the Project.

This Report details five trends in the first two years of the crusade against “CRT.” **First**, nearly half of all measures introduced use language from Executive Order 13950, especially its so-called “divisive concepts.” **Second**, anti-“CRT” measures are pervasive but unevenly distributed among red, blue, and purple states. **Third**, anti-“CRT” measures overwhelmingly, though not exclusively, target public K–12 institutions. **Fourth**, restricting teaching behavior and otherwise regulating course curriculum is the most frequent

goal of individual measures. **Fifth**, among legislation, withholding funding and issuing fines are the most common consequence for non-compliance.

a. Executive Order 13950’s Strong Legacy

The E.O.’s influence is apparent across all levels of lawmaking and most strongly felt in measures restricting so-called “divisive concepts.”⁷⁶ For example, on April 1, 2021, Arkansas state senator Trent Garner (R) introduced S.B. 627, “An Act to Prohibit the Propagation of Divisive Concepts,” which went into effect on January 1, 2022.⁷⁷ Like many laws banning “divisive concepts,” S.B. 627 prohibits training or teaching which promotes “race and sex scapegoating” or “stereotyping” and forbids educators from labeling Arkansas or the United States as “fundamentally racist or sexist,” teaching that one’s “moral character is necessarily determined by his or her race or sex,” or claiming that any living person has “responsibility for actions committed in the past” or should “feel discomfort, guilt, anguish, or any other form of psychological distress” on account of their race.⁷⁸

The content of Arkansas’s legislation is typical and frequently appears in school board policy. In early August 2021, for instance, the Board of the Penncrest School District in suburban Philadelphia, PA debated a resolution prohibiting “CRT” from being taught in the district’s schools, which culminated in a March 11, 2022 policy revision regarding *Current Events/Controversial Issues* (Policy 119).⁷⁹ The Policy forbids teachers and schools from “teach[ing], instruct[ing], or train[ing] any student or staff member to adopt or accept as fact any divisive concept.”⁸⁰ Policy 119’s listed concepts mimic those first laid out in Trump’s Executive Order.⁸¹

Not every tenet under the “divisive concept” umbrella appears in every “divisive content” measure. **Table 4** shows how frequently law and policymakers have employed language from the E.O. in crafting their bans. Additionally, **Table 4** includes invocations of “Critical Race Theory,” the 1619 Project, and a few of the so-called “divisive concepts” that are most numerous in the database.

Table 4. Introduced Measures by Targeted Content*

Targeted Content	Total introduced measures	% of introduced measures
Critical Race Theory	200	35.5
1619 Project	75	13.3
Fundamentally Racist	159	28.2
Responsibility	229	40.7
Guilt	187	33.2
Meritocracy	176	31.3
Divisive/Controversial	120	21.3
Not Specified	160	28.1

As **Table 4** shows, 40.7% of all introduced measures prohibit instruction that implies or explicitly states that “an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex”; followed by prohibitions on teaching that “any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex” (33.2%).

The other tallied umbrella concepts — that “meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular race to oppress another race” (31.3%) and that “the U.S. is fundamentally racist

The measures targeting “CRT” and the “1619 Project” are the most likely to be adopted or enacted after introduction.

or sexist” (28.2%) — feature only slightly less often. Surprisingly, lawmakers directly namecheck “CRT” in only 35.5% of measures. Similarly, despite the frequent inclusion of the *New York Times*’s 1619 Project⁸² in anti-“CRT” rhetoric, its actual title is mentioned in just 75 (13.3%) of the introduced measures.

However, **the measures targeting “CRT” and the “1619 Project” are the most likely to be adopted or enacted after introduction.** **Table 5** displays the relationship between introduced measures and those eventually enacted.

As **Table 5** shows, of the 200 identified measures specifically mentioning Critical Race Theory, over half have been enacted (108 of 200). Similarly, over half of the measures that seek to ban the 1619 Project have been adopted (40 of 75). By contrast, while law and policymakers introduced 229 measures prohibiting instruction that an “individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex,” these officials only adopted 26% (60 of 229).

Table 5. Progress of Introduced Measures by Content Prohibited

Prohibited Content	Introduced	Introduced (% of 563)	Adopted	Adopted (% of 241)
Critical Race Theory	200	35.5	108	44.8
1619 Project	75	13.3	40	16.6
Fundamentally Racist	159	28.2	51	21.1
Responsibility	229	40.7	60	24.9
Guilt	187	33.2	53	22.0
Meritocracy	176	31.3	45	18.7
Divisive/Controversial	120	21.3	50	20.7
NS	158	28.1	75	31.1

* In order (top to bottom), these content triggers denote that a measure (1) invokes Critical Race Theory; (2) invokes the 1619 Project; or makes reference to specific terms which originated in E.O. 13950: that (3) the U.S. [or a state within the U.S.] is fundamentally racist or sexist; that (4) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; that (5) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; that (6) meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular race to oppress another race; or which (7) contain the actual terms “Divisive concepts” or “controversial issues.” (8) “Not specified” means that the measure did not contain any of the concepts coded by the Tracking Project team.

While “Critical Race Theory” appears in only about one-third of the anti-“CRT” measures lawmakers introduce, the term appears in almost half of the 241 enacted measures. “Not specified” means that the measure did not contain any of the concepts coded by the Tracking Project team.

An example of a measure labeled “not specified” is a policy change considered by the Board of Education of Douglas County School District RE-1 in Colorado. In March 2021, the School Board adopted an Educational Equity policy.⁸³ Less than a year later, that policy came into question. In January 2022, the Board released a resolution that claimed the policy implementation sparked “legitimate questions . . . from School District staff and parents, and the community at large, regarding [the previous policy’s] underlying assumptions and implementation.”⁸⁴

This resolution espoused many of the sentiments associated with the anti-“CRT” movement, such as an insistence that while slavery and segregation were “horr[ible],” students should nonetheless be taught that “alongside these shortcomings, the United States continues to shine as a beacon for unprecedented individual freedom, equality of opportunity, and prosperity for people from all over the world.”⁸⁵ Therefore, we code this as an anti-“CRT” activity but “not specified” because it does not prohibit any concepts but clarifies a previous policy according to certain principles.

While “Critical Race Theory” appears in only about one-third of the anti-“CRT” measures lawmakers introduce, the term appears in almost half of the 241 enacted measures.

b. Widespread activity, politically unevenly distributed

Anti-“CRT” measures are pervasive across all states, except Delaware, and every state — whether blue, red, or purple — has seen at least some activity.*

For instance, in January 2022, Washington State legislators, governing in a blue stronghold with Democratic legislative and executive control, introduced (and ultimately allowed to expire) only one anti-“CRT” state bill, H.B. 1886 (“*Relating to prohibiting the teaching of critical race theory and related curricula in public schools*”).⁸⁶

Indeed, going the opposite way, the Washington State Legislature passed S.B. 5044 — signed into law by Gov. Jay Inslee on May 5, 2021 — a bill that might be characterized as an anti-anti-“CRT” effort. S.B. 5044, entitled an Act “[r]elating to equity, cultural competency, and dismantling institutional racism in the public school system,” called for collaboration between the Washington state school directors’ association and the state professional educator standards board. As a team, they were to “develop trainings to incorporate cultural competency standards” into state teaching standards and practices, as well as “develop cultural competency training programs for school district staff from paraeducators to administrators . . . [and] develop a plan for the creation and delivery of cultural competency training for school board directors and superintendents.”

S.B. 5044’s new requirements notwithstanding, policymakers in five Washington State localities introduced anti-“CRT” measures, some explicitly seeking to sidestep S.B. 5044’s ambit, of which two have been adopted and three are still pending.

Table 6 describes the state and local distribution of anti-“CRT” measures by state political identity. This table excludes the 35 introduced federal measures.

* The Tracking Project identifies “liberal” or “blue” as states are those who voted for the Democratic Presidential candidate in the last two elections. These 20 states are: California; Colorado; Connecticut; Delaware; Hawaii; Illinois; Maine; Maryland; Massachusetts; Minnesota; Nevada; New Hampshire; New Jersey; New Mexico; New York; Oregon; Rhode Island; Vermont; Virginia; and Washington. “Conservative” or “red” states are those who voted for the Republican Presidential candidate in the last two elections. These 25 states are: Alabama; Alaska; Arkansas; Florida; Idaho; Indiana; Iowa; Kansas; Kentucky; Louisiana; Mississippi; Missouri; Montana; Nebraska; North Carolina; North Dakota; Ohio; Oklahoma; South Carolina; South Dakota; Tennessee; Texas; Utah; West Virginia; and Wyoming. “Purple” states, identified as states that “flipped” their political leaning between the 2016 and 2020 presidential election, are Arizona; Georgia; Michigan; Pennsylvania; and Wisconsin. See CNN Projection: *Presidential Results*, CNN (updated May 5, 2021), [cnn.com/election/2020/results/president](https://www.cnn.com/election/2020/results/president) (here, states which “flipped” are the purple states).

Table 6. Introduced Measures by State Political Leaning

State Political Leaning	No. of States	Total
Blue	20	110
Red	25	331
Purple	5	87
Total	50	528

Together, state lawmakers in the 25 red states have introduced 331 anti-“CRT” measures, about 62% of the total. By comparison, officials across the 20 blue states have introduced 110 measures, comprising about 21% of the total. Lawmakers in the five purple states have introduced 87 anti-“CRT” measures, representing 16% of the total.⁸⁷

Table 7 illustrates how a state’s political leaning correlates to its ratio of introduced state to local measures.

Table 7. Introduced Measures by Political Leaning and Level

State Political Leaning	State	Local	Total
Blue	48	62	110
Red	261	70	331
Purple	42	45	87
Total	351	177	528

Local policymakers introduced measures in blue (62) and red (70) states relatively evenly. Red-state measures, however, predominate in state legislatures. Red states introduced 261 measures, vastly outpacing introduced measures in blue-state legislatures (48) and purple-state legislatures (42). For purple states, the state-local split is fairly even (42 state and 45 local). Red states, however, show a different pattern; state-level measures dwarf local-level activity by a factor of nearly 4:1 (261:70).

Whether lawmakers eventually *adopt* an anti-“CRT” measure also differs by state political leaning. Lawmakers in 28 states have adopted at least one anti-“CRT” measure at the state level, including attorney

Almost the entire sum of blue-state measures are on the local level. In contrast, most state-level adoption — about 85 percent (88 of 104) — are in red states.

general letters, executive directives, legislation, policies, regulations, resolutions, and statements. Of those 28 states, 16 have specifically enacted anti-“CRT” legislation. **Table 8** shows the proportion of adopted to introduced measures by state political leaning.

Table 8. Introduced and Adopted Measures by State Political Leaning

State Political Leaning	State Adopted	Local Adopted	Total Adopted
Blue	5	39	44
Red	88	58	146
Purple	11	40	51
Total	104	137	241

Blue-state and red-state law and policymakers have successfully adopted 40% and 44% of introduced measures respectively. Purple-state lawmakers are the most effective in moving measures from introduction to adoption, with 59% of all the 87 purple-state introduced measures (51 of 87). These five purple states — Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin — enacted more anti-“CRT” measures than the twenty blue states combined (51 vs. 44).

We also see this dynamic with officials acting at the state and local levels. Only five blue-state legislators’ anti-“CRT” measures were adopted by year’s-end 2022. **Almost the entire sum of blue-state measures are on the local level. In contrast, of the 104 adopted measures at the state level, 85 percent (88 of 104) — are in red states.** And those enactments are widespread: 24 of the 25 red states enacted at least one anti-“CRT” measure at the state level. Only Wyoming, among red states, has not enacted state-level anti-“CRT” measures.

c. Schools are the most frequently targeted institution, but not the only targeted institution

Moms for Liberty released a publication in June 2021, “An A to Z Guide on How to Stop Critical Race Theory,” in which the group warned parents that “CRT” is “part of a takeover ideology with an end goal of completely controlling all institutions that are a part of American life,” including K–12 schools and the military.⁸⁸ “They are trying to socially replace you,” the materials warn.⁸⁹ “With just an ounce of power, they will move surreptitiously and artfully to implement destructive CRT dreams into reality.”⁹⁰ In summer 2022, as part of M4L’s first-annual “Joyful Warriors National Summit,” the group presented Florida Governor Ron DeSantis with an honorary sword emblazoned “THE LIBERTY SWORD.”⁹¹ During his keynote speech, DeSantis made clear that local foot soldiers were a crucial part of his anti-“CRT” strategy:

We have drawn a very clear line in the sand to say our school system is for educating kids, not indoctrinating kids. . . . It’s really the local communities that need to be leading the way when it comes to their school board. . . . You just gotta be willing to stand by your convictions Now’s not the time to let them grind you down. You gotta stand up, and you gotta fight.⁹²

At the Summit, M4L Joyful Warriors gained “tools in their toolbox to do whatever they need to be effective advocates in their community,”⁹³ including instructions for speaking up in school board meetings, requesting (and challenging) curricula, and running for office.⁹⁴ During his speech, DeSantis also rattled off endorsements for various Florida school board candidates. Before election day, he tweeted a list of 30 Liberty-adjacent picks (all of them “committed to the student-first principles of the DeSantis Education Agenda.”)⁹⁵ Twenty-five candidates won their races.⁹⁶ As a result, five Florida school boards flipped to conservative control, including Miami-Dade, which now “become[s] the nation’s largest school district to be overseen by elected conservatives.”⁹⁷ As the 1776 Project PAC⁹⁸ account boasted on Twitter just after election night:

Yesterday a Texas school board that we flipped last May banned CRT and gender ideology. Today our PAC helped flip FIVE Florida school boards from

Ninety-one percent of all introduced measures include as targets K–12 education, and almost 20 percent of activities include higher educational institutions.

majority liberal to conservative, including Miami Dade. We are removing left-wing ideologies from our schools one county at a time.⁹⁹

Anti-“CRT” measures and rhetoric have propagated widely, especially related to K–12 schools. **Table 9** illustrates the preeminence of schools as institutional targets of the anti-“CRT” movement (note that measures can target more than one institution simultaneously).

Table 9. Institutions Targeted by Anti-“CRT” Measures

Target	Introduced	Enacted
K-12	513	226
Higher Education	110	29
State or Federal Agencies	11	1
Contractors	80	12
Private Business / Non-Profit	49	10

Table 9 shows that **91% percent of all introduced measures include as targets K–12 education, and almost 20 percent of activities include higher educational institutions.** Fewer measures, although no less impactful, target government agencies, contractors, and private organizations. Law and policymakers have adopted 44% of all introduced measures targeting K–12 institutions (226 of 513), and over a quarter of introduced measures targeting higher education (29 of 110). Of the 241 enacted measures, 226 target K–12 institutions (94%) and 29 target higher education.

In the 25 red states, plus purple Arizona and Georgia, state lawmakers have enacted anti-“CRT” measures targeting K–12 schools. **These affect over 22 million children, almost half of the country’s 50.8 million public school children.**¹⁰⁰

While individual measures aimed at systems of higher education are less numerous than those targeting local school districts, such bills can quietly impact hundreds of thousands of students. Consider again the state of Florida, whose public university system (comprised of 12 schools) educates approximately 340,000 students each year, with its accompanying College System (28 schools) instructing an additional 733,000. This means that in April 2022, when Gov. Ron DeSantis signed the “Individual Freedom Act”¹⁰¹ — legislation he proposed to lawmakers in December 2021 as the “Stop W.O.K.E. Act” — into law, he installed policy instantly applicable to more than one million college-age students.

Stop W.O.K.E. once more highlights the chilling effect that such bills can have, even where destined to be struck down by the courts.¹⁰² Reporting in ProPublica describes the ensuing hectic scenes at the University of Central Florida (UCF), the state’s largest public university, where multiple undergraduate and graduate courses offered by the school’s sociology department were abruptly canceled before the start of the fall 2022 semester over fears about Stop W.O.K.E.’s reach. This meant that “[o]f the 39 courses offered this past fall by a department that specializes in the study of human society, *none* focused primarily on race.”¹⁰³

Predictably, this fear and uncertainty over enforcement most heavily impacts those instructors who lack tenure protections — something which is “particularly rare” for Black, and other underrepresented, professors teaching at historically and “predominately white institution[s].”¹⁰⁴ When Professor Jonathan Cox, UCF’s only Black instructor in its sociology department, and himself

ineligible for tenure for another calendar year, canceled his two courses following the passage of Stop W.O.K.E., he did so because he felt “completely unprotected. . . . Somebody who’s not even in the class could come after me. Somebody sees the course catalog, complains to a legislator — next thing I know, I’m out of a job.”¹⁰⁵

d. Controlling curriculum and teachers most common

In rural Tennessee, the school board overseeing the Sullivan County Central High School dismissed teacher and baseball, softball, and football coach Matthew Hawn on May 10, 2021, after he discussed the role of race and racism in his current events class during the 2020–21 academic year.¹⁰⁶

Mr. Hawn — a local native who grew up 20 minutes from Sullivan Central and began teaching at the school in 2005, receiving tenure in 2008 — had taught the course “Contemporary Issues” since 2010.¹⁰⁷ As is common in many such classes, Hawn and students spent class covering “a variety of current events and issues” in a more informal discussion-based environment meant to be a “safe harbor for opinions, thoughts, perspectives, and overall expression.”¹⁰⁸ Contemporary Issues, an elective course, was designated to cover controversial issues, and syllabi noted possible topics like climate change, the U.S. political climate, race and gender issues, and the #MeToo movement.¹⁰⁹

Even in an area where more than 75% of voters cast their 2016 and 2020 ballots for Trump, Contemporary Issues was a favorite among students.¹¹⁰ Neither Hawn nor the school had ever received complaints about the class’s content, coursework, or instructional style over the previous decade.¹¹¹ But after a video of one class, following the Kyle Rittenhouse fatal shootings in Kenosha, WI on August 25, 2020,¹¹² was inadvertently forwarded to students not enrolled in Contemporary Issues, the video circulated through the community and eventually reached a man named Chad Conner.¹¹³ Conner, who had no children in Sullivan County schools but was very active in local politics, uploaded the video to his Facebook page, and it quickly gained significant attention on right-wing internet outlets.¹¹⁴ Following this sudden rash of attention, the school system received new complaints about Hawn’s teaching.

Adopted anti-“CRT” measures affect

**22 million
children almost half
of the country’s**

**50.8 million
public school students.**

These developments began amid the transition of power to the Biden administration, during which Tennessee state legislators began introducing new anti-“CRT” bills, such as H.B. 580,¹¹⁵ in February 2021. H.B. 580 forbids any local education agency (LEA) “or public charter school [from] includ[ing] or promot[ing] [divisive] concepts as part of a course of instruction or in a curriculum or instructional program, or allow[ing] teachers or other employees of the LEA or public charter school to use supplemental instructional materials that include or promote” divisive concepts.¹¹⁶ The school district “reprimanded” Hawn in an official letter dated February 3, 2021.¹¹⁷ Three months later, and on the same day the Tennessee legislature enacted the new bills, the district suspended Hawn without pay and presented draft charges for his dismissal based on “unprofessional conduct” and “insubordination.”¹¹⁸ At a June 2021 school board meeting, Sullivan County

Director of Schools David Cox claimed the passage of the new laws and Hawn’s firing was entirely coincidental.¹¹⁹

Table 10 illustrates the educator behaviors the anti-“CRT” measures regulate (note that measures can target more than one behavior).

Table 10. Behavior Regulated in Introduced and Adopted Measures Targeting K–12 Institutions

<i>Regulated Behavior</i>	<i>Introduced</i>	<i>Adopted</i>
<i>Classroom Teaching</i>	372	147
<i>Curricular Content</i>	384	172
<i>EDI Policy</i>	38	34
<i>Trainings</i>	154	57

Table 10 shows that of the introduced measures that target K–12 schools, 73% (372 of 513) regulate classroom teaching, and 75% (384 of 513) regulate curricular materials. Thirty percent (154) of introduced K–12 measures seek to regulate teacher training. Measures regulating classroom teaching are less likely to be adopted (73% of introduced measures; 65% of adopted measures), while measures that restrict curricular choices account for 76% of adoptions (172 of 226). And though introduced measures related to “equity, diversity, and inclusion” initiatives are less common (7%), they amount to 15% of adopted measures.

Table 11 shows the distribution of three types of curricular mandate and the proportion of measures introduced compared to measures adopted. Not all measures that target K–12 institutions included specific requirements.

Of introduced measures that target K–12 schools,

73% (372 of 513) regulate classroom teaching, and

75% (384 of 513) regulate curricular materials

Table 11. Requirements of Anti-“CRT” Measures Targeting K–12

	<i>Introduced</i>	<i>Enacted</i>	<i>Rejected</i>	<i>Pending</i>	<i>Expired or Withdrawn</i>
<i>Curricular Surveillance</i>	147	41	11	25	70
<i>Book Bans</i>	33	22	5	3	3
<i>Opt-Out</i>	35	17	3	6	9

Of the 513 introduced measures targeting K-12 institutions, 147 (29%) affirmatively require school districts to allow parents to surveille curriculum. Forty-one of those 147 activities (28%) have been adopted.

One common mechanism for curricular surveillance is state-established mechanisms for parents and other community members to submit allegations of so-called “indoctrination.” Such measures include creating internet “tip lines,” a development adopted in Virginia, New Hampshire, West Virginia, Missouri, and New Jersey.¹²⁰ For example, the New Hampshire tip line “provides parents with an online site to address concerns that their child may have been discriminated against”¹²¹ — or, in other words, exposed to tenets attributed to “CRT.”

The other requirements are less common, including those providing for educational “opt-outs” (17 enacted compared to 35 introduced measures) or concerning “forbidden books” (22 enacted compared to 33 introduced).

Of the 513 introduced measures targeting K-12 institutions,

147 (29%) affirmatively require school districts to allow parents to surveille curriculum.

Forty-one of those 147 activities (28%) have been adopted.

Chilling Effects

In a study conducted by researchers in the UCLA School of Education and Information Studies (SEIS), school principals consistently report that over the course of the pandemic tensions have ratcheted up significantly on matters related to race, gender/sexuality, and COVID-19 itself: “The pandemic made people more vocal and angry about all the political things we’re seeing across the country now,” one Nebraska high school principal said:

We went from having nobody at our board meetings to having 150 people pack in our board meetings during COVID because we were “killing their children” by requiring them to wear masks. We’ve had an individual come to our school board with a gun on his belt that we’ve had to have removed. There is a very vocal and politically organized group of parents/stakeholders with ultraconservative views that want to remove discussions about race from the high school classroom, believe that LGBTQ+ rights should not be upheld in the school system, desire to have Christian prayer in schools, desire books related to race and LGBTQ+ topics to be removed from the curriculum and library.¹²²

The SEIS report authors note that “[t]hese political conflicts have created a broader chilling effect”¹²³ even absent formal policy action, including on curricular choices,¹²⁴ pedagogical styles,¹²⁵ student speech and inclass dialogue,¹²⁶ and professional development programs.¹²⁷ Further, as parents and community members engage in brazen “anti-democratic practices such as spreading misinformation and employing threatening, denigrating, and violent rhetoric,”¹²⁸ educators and school staff forced to deal with it become further discouraged and frustrated.¹²⁹ All told, “[m]ore than two-thirds (69%) of principals surveyed” in the SEIS report reported *substantial* political conflict over hot button issues” in their areas and schools.¹³⁰

And behind the scenes superintendents are explicitly, though unofficially, informing principals “in no uncertain terms” that they cannot “address issues of race and bias etc. with students or staff this year. . . . ‘This is not the time or the place to do this here. You have to remember you are in the heart of Trump country and you’re just going to start a big mess if you start talking about that stuff.’”¹³¹ Unsurprisingly, many educators choose to simply comply with such requests in order to not lose their jobs.

e. Withholding funds and issuing fines for non-compliance

One-third of lawmakers' legislative measures include consequences punishing actors who engage in prohibited conduct. **Table 12** illustrates the consequences mechanisms within the introduced legislation.

Table 12. Consequences for Non-Compliance in Introduced Legislation

Legislation	308
Funding withheld	101
Private COA	46

As **Table 12** shows, among legislative measures, at least one-third propose withholding funding from teachers, schools, and districts as a consequence for violations. Of the 308 legislative measures, 101 (33%) call for withholding funding or imposing fines against individual schools or entire districts as the penalty. Forty-six legislative measures provide a private cause of action by which individual citizens may sue district officials and teachers for alleged noncompliance.

Together, these trends are both surprising and not. **First, the E.O., while rescinded four months after the then-President released it, continues to influence the content of anti-“CRT” bans.** The “concept” that individuals should feel “responsible for actions of the past” was the most prevalent of “divisive concepts.” While “CRT” did not appear in most lawmakers’ introduced anti-“CRT” bans, almost half of all the measures lawmakers *passed* explicitly forbid teaching “CRT.”

Second, while the anti-“CRT” measures are widespread across the country, conservative states are driving much of this movement. Red state lawmakers account for most state-level activity, while local policymakers have introduced measures evenly among blue, red, and purple states. Because most measures in the 25 red states are adopted at the state level, almost half of all the nation’s public school children are affected by an anti-“CRT” measure.

Third, anti-“CRT” measures overwhelmingly target K–12 schools and higher education. Over 90% of the measures law and policymakers introduced target K–12 institutions, and 94% of all adopted measures do so.

Fourth, among those measures that target K–12 institutions, over 70% focus on regulating teacher behavior and curriculum, with far fewer measures targeting training and equity, diversity, and inclusion efforts. This targeting has imposed a chilling effect among educators, even when those measures have not been formally adopted.

Fifth, legislative measures tend to call for withholding funding. One-third of legislative measures provide for withholding funding as a consequence for non-compliance.

As mentioned above, anti-“CRT” measures are widespread, impacting even solidly blue states. California is emblematic of several of the trends described above.

B. Spotlight on California

California is the nation’s most populous and third-largest-sized state, comprised of 58 counties ranging from as many as nearly 10 million (Los Angeles County) to as few as 1,235 (Alpine County) residents.¹³² California public schools educate 5.9 million children.¹³³ Despite its strong blue reputation, the state is no monolith, with political coalitions varying by geography and level of government. California thus offers many potential spaces for anti-“CRT” activity.

1. State and Local Measures

California has swapped red/blue majorities in state government at least five times in its history.¹³⁴ Though now firmly blue, as recently as the mid-1990s, there was a roughly 50-50 party split in the California State Assembly; in the California Senate, the last even split was in the 1970s.¹³⁵ In light of the current political climate, California Republican legislators likely have few avenues by which they might advance anti-“CRT” activity at the state level, given strong Democratic majorities in the upper (31 of 40 state Senators) and lower (60 of 80 state Assemblymembers) houses of the California Legislature.¹³⁶

Despite the absence of state-level measures, California initially ranked among the top five states nationally with the most local, as opposed to state, measures introduced. But this trend has shifted recently. State laws like Georgia’s anti-“CRT” measure, H.B. 1084, force individual school districts to promulgate their own local procedures which comply with the state bill.

California’s trends illustrate how schoolchildren, even in blue states, are impacted by anti-“CRT” efforts. To date, seven of the eleven measures California school boards introduced have been adopted, affecting approximately 110,000 students statewide. Indeed, these 110,000 total nearly 20,000 more K–12 students than are enrolled in the entire state of Wyoming combined. (Perhaps surprisingly, given its red-state identity, Wyoming has adopted just a single anti-“CRT” policy so far, applicable to one school district with a scant 648 students.¹³⁷)

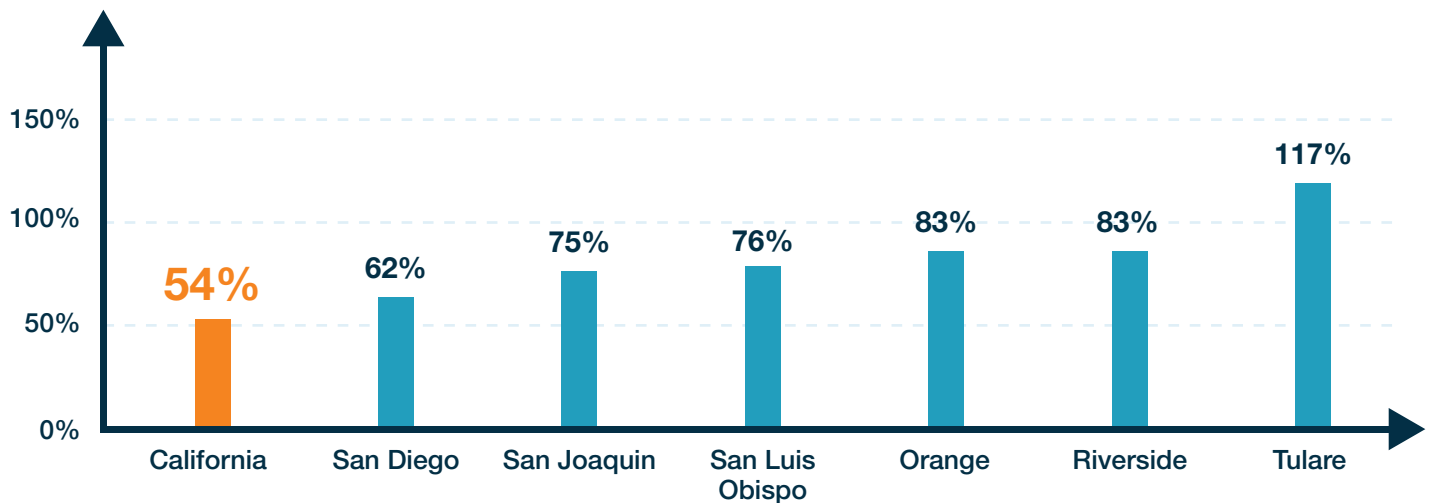
Table 13 shows the relationship between state and local political leaning and anti-“CRT” school board measures in California.

Every anti-“CRT” measure in California has been introduced by policymakers in counties that are more conservative than the state.

The chart illustrates the ratio of Trump votes to Biden votes in the 2020 Presidential election for each California county in which an anti-“CRT” measure was introduced, that is, Trump votes / Biden votes. Counties on the right of the graph are more conservative (i.e., where Trump received a relatively higher percentage of Biden’s votes) than counties to the left (where Trump received a relatively lower percentage of Biden’s votes). The state favored Biden by about 2:1 (Trump received 54% of Biden’s votes).¹³⁸

Typical of measures in other blue states, which tend to occur in counties that are more conservative than the state as a whole, **every anti-“CRT” measure in California has been introduced by policymakers in counties that are more conservative than the state.**

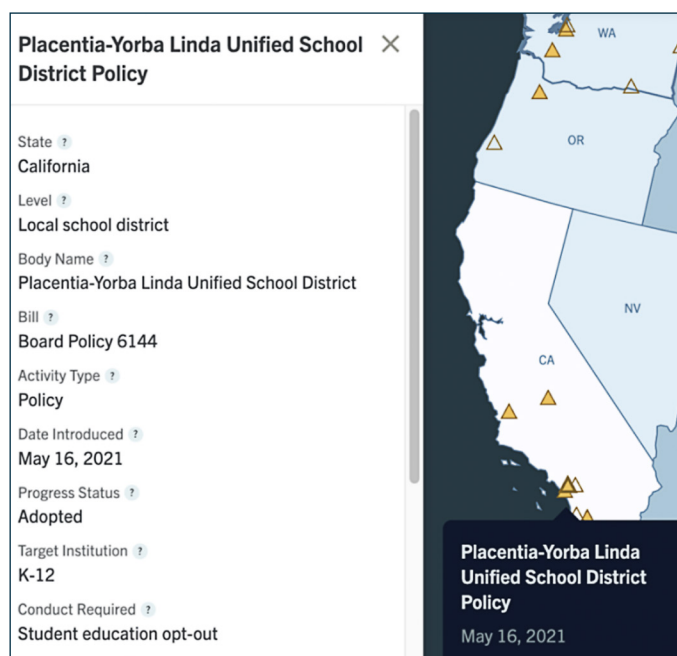
Table 13. Anti-“CRT” Measures in California Counties



2. Adopted Measures

Eight California school boards have introduced eleven total anti-“CRT” measures and adopted seven.

The **Placentia-Yorba Linda Unified School District**, serving approximately 24,000 total K–12 students, implemented two anti-“CRT” measures: (1) Resolution No. 21-12 (Res. No. 21-12), titled “*Concerning District Teaching of Critical Race Theory (CRT) as a Framework on Matters Relating to Race*,” adopted April 5, 2022;¹³⁹ and (2) Board Policy 6144 (BP 6144), titled “*Controversial Issues*,” adopted June 21, 2022.¹⁴⁰

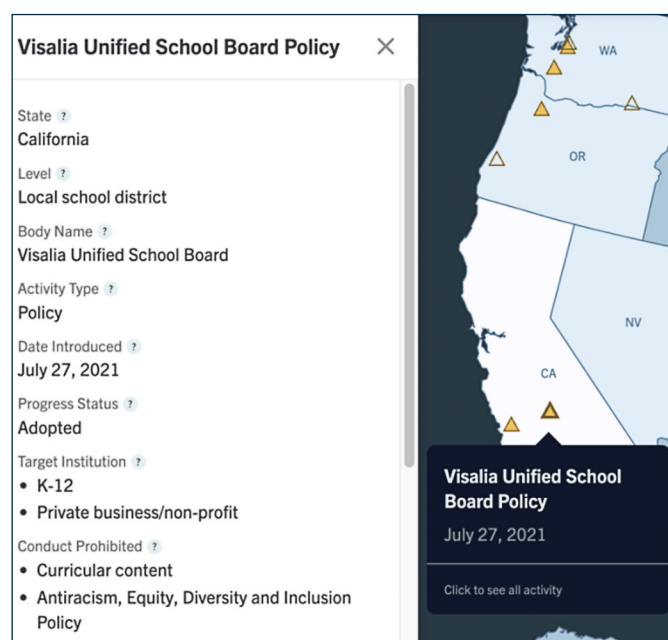


Res. 21-12 invokes “Critical Race Theory” — which it defines in detail¹⁴¹ — and forbids it from being “used as a source to guide how topics related to race will be taught.”¹⁴² The School Board resolved that it “will not allow the use of Critical Race Theory” in any curriculum or course offerings¹⁴³ but would, ironically, attempt to advance the District’s goals of “promot[ing] equity, respect[ing] diversity, celebrat[ing] the contributions of all, and encourag[ing] culturally relevant and inclusive teaching practices.”¹⁴⁴

While Res. 21-12 declares that educators may not reference “CRT” or use it as a “framework” for exploring “how topics of race will be taught,”¹⁴⁵ BP 6144 states that instruction should be “balanced” and “address[] all sides of the issue without bias . . . and without promoting any particular point of view.”¹⁴⁶ Further, BP

6144 instructs that “[a] student or parent/guardian with concerns regarding instruction about controversial issues should communicate directly with the teacher or principal.”¹⁴⁷ And “[w]hen required by law,” the BP notes, “parents/guardians shall be notified prior to instruction that they may request in writing that their student be offered an alternative activity of similar educational value.”¹⁴⁸

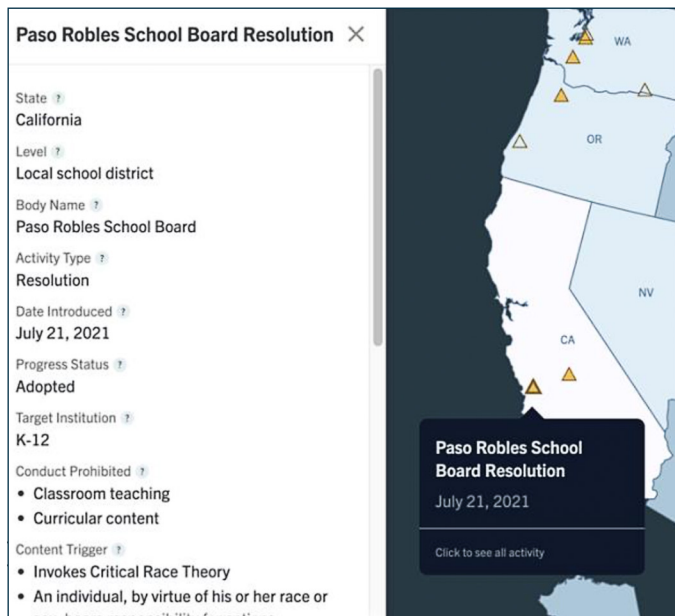
Outside of Fresno, the school board of the **Visalia Unified School District**, serving approximately 28,900 students, voted down a motion to renew a K–6 public charter school’s “Newsela” subscription over concerns about “CRT.” The school board voted to reject Enclosure No. 19, “*Renewal Agreement for Newsela Online Platform for Use by Global Learning Charter School*” (“GLCS”), on August 10, 2021, and the contract canceled.¹⁴⁹



The platform, Newsela, is a popular online subscription-based service that allows students to search for articles, in subjects like science and social studies, which are customized to their independent reading level. Before the school board rejected the renewal contract, GLCS educators had enthusiastically used Newsela, which claims over 37 million student users and aligns with applicable standards in all 50 states.¹⁵⁰ In 2019, three of the four Board Members who would later vote “no” on Encl. No. 19 approved funding Newsela without incident.¹⁵¹ At some point, though, Newsela became a local focus of anti-“CRT” rhetoric. Board of Education

Trustees claimed before the vote that Newsela is “biased” and “teaches critical race theory.”¹⁵² Anti-Newsela sentiment is not unique to Visalia Unified: beginning in approximately early 2021, conservative outlets objected to the service, primarily complaining about Newsela’s K–6 reading-level versions of articles originally published in “left-leaning” newspapers like the *New York Times*.¹⁵³ Following the no vote on Encl. No. 19, GLCS teachers scrambled to migrate years of lesson plans out of the software just two days before the start of their 2021–22 academic year.¹⁵⁴

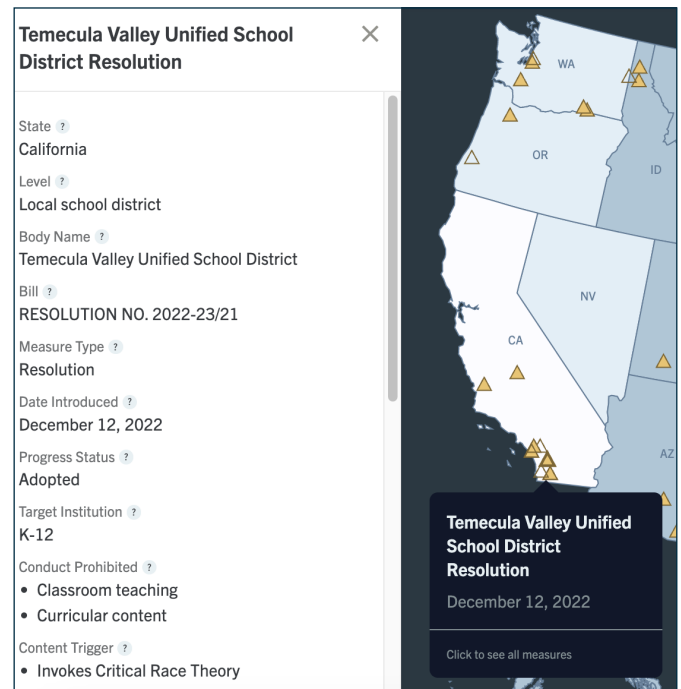
In August 2021, the **Paso Robles Joint Unified School District** in San Luis Obispo County, which serves approximately 6,660 students, adopted, by a vote of 4 to 3, a measure targeting “CRT,” Resolution 21-27A (Res. 21-27A), titled “*Resolution of the Paso Robles Joint Unified School District Prohibiting the Teaching of Critical Race Theory*.”¹⁵⁵



Like many anti-“CRT” measures, Res. 21-27A bans teaching assorted common “divisive concepts” (such as that “[a]n individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past or present by other members of the same race or sex”¹⁵⁶). In addition, Res. 21-27A states that certain “specific elements” of “CRT” “cannot be taught,” including concepts like “differential racialization” and “material determinism.”¹⁵⁷ Another notable feature of Res. 21-27A is its final proviso: “Notwithstanding the above restrictions, social science courses can include instruction about Critical Race Theory, provided that

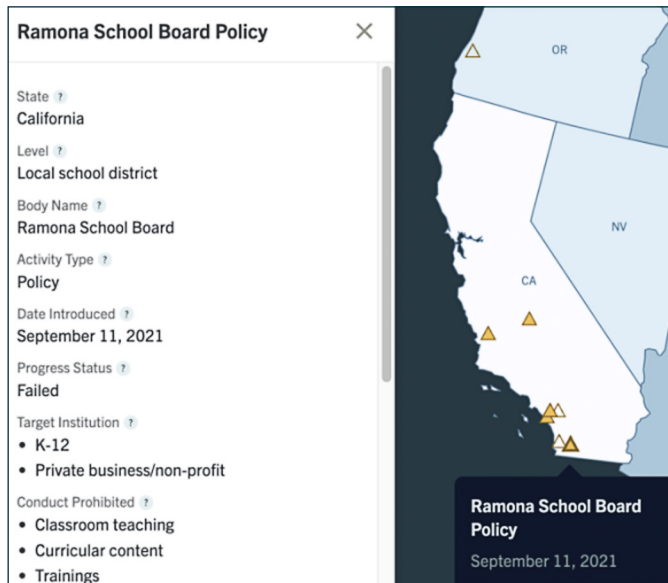
such instruction plays only a subordinate role in the overall course and provided further that such instruction focusses [sic] on the flaws in Critical Race Theory.”¹⁵⁸

On December 13, 2022, the **Temecula Valley Unified School District**, in Riverside County, which serves approximately 26,700 students, adopted Resolution No. 2022-23/21 (Res. No. 2022-23/21), titled “*Resolution of the Board of Trustees of the Temecula Valley Unified School District [“TVUSD”] Prohibiting the Teaching of Critical Race Theory*.”¹⁵⁹



Res. No. 2022-23/21 “reject[s]” “CRT” as a “fatally flawed” ideology which is “based on false assumptions about the United States of America and its population.”¹⁶⁰ The Resolution explicitly defines this ideology in opposition to TVUSD’s belief in Dr. Martin Luther King, Jr.’s dream “that people should ‘not be judged by the color of their skin but by the content of their character.’”¹⁶¹ In the rest of its text, Res. No. 2022-23/21 nearly exactly mirrors the content of the above Paso Robles USD resolution: listing five identical “specific elements of Critical Race Theory” which “cannot be taught,” banning the same eight divisive concepts doctrines which are supposedly “derived from Critical Race Theory,” and even copying the end proviso that social science courses *may* include discussion of “CRT” so long as instruction is centered on its “flaws.”¹⁶²

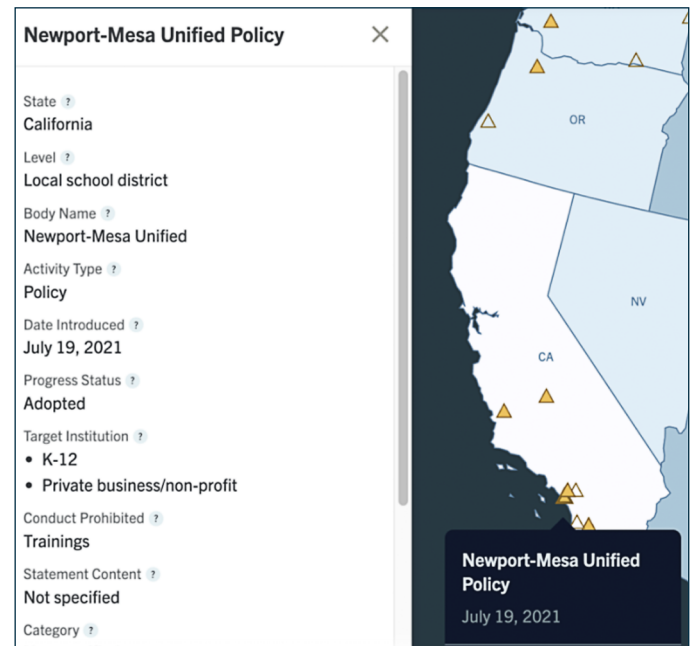
On August 12, 2021, the **Ramona Unified School District** in San Diego County,¹⁶³ which serves approximately 5,070 students, adopted a new board policy employing boilerplate ban language, Board Policy 6142.3 (BP 6142.3), titled “*Civic Education - U.S. History/U.S. Government.*”¹⁶⁴



BP 6142.3 recites a verbatim (a)–(j) list of ten forbidden “divisive concepts” derived from the 2020 E.O.¹⁶⁵ Where indicated, the Policy reads, materials and instructors “shall include the historic role that racism has played and the inequities that resulted from it,” but in so doing, they “shall not impart any” of these ten.¹⁶⁶

As the Board President summarized: “We just want to make sure that American exceptionalism is noted, that in all mankind, nobody has brought freedom to the world like America has.”¹⁶⁷

On July 13, 2021, in Orange County, the school board of the **Newport-Mesa Unified School District**, which serves approximately 18,559 students, paused an “anti-bias training” contract for student leaders and school staff over fears about “Critical Race Theory.”¹⁶⁸



The training, produced by the Anti-Defamation League and “intended to prevent bigotry and bullying to create a healthy campus climate,” had been in use for two years at Newport-Mesa schools following an antisemitic incident involving Newport-Mesa students in 2019.¹⁶⁹ But after a coordinated flyer campaign by the group “Newport Harbor Republican Women” — describing the ADL’s program as “divisive, critical racist training . . . hiding under the ‘sensitivity’ education umbrella and indoctrinating our children”¹⁷⁰ — the school board “voted [5-2] to halt the contract after a little over five minutes of discussion.”¹⁷¹ When the matter was brought back for reconsideration on August 17, 2021, the Trustees unanimously voted to renew the contract — but in truncated form, with a previously-included “advanced” anti-bias course now removed.¹⁷²

California’s trends illustrate how schoolchildren, even in blue states, are impacted by anti-“CRT” efforts. To date, seven of the eleven measures California school boards introduced have been adopted, affecting approximately 110,000 students statewide.

First They Came...

The attacks have not solely focused on race.

Throughout the campaign, anti-“CRT” evolved and expanded focus to target minoritized groups along other dimensions as well, such as gender, sex, and sexuality. Of the 563 total activities in our database, 269 of them (47%) target categories *beyond* “race or ethnicity” alone. Of these 269, 130 of them (48%) are targeted at “race or ethnicity, sex, and more.”

Moms for Liberty (M4L) has explicitly organized their movement as a twin attack on race and gender ideologies (for instance, what its co-founders have frequently called “the transgender contagion”¹⁷³) supposedly infiltrating schools. In September 2021 — a little less than a year away from the Joyful Warriors Summit in summer 2022 — M4L’s Miami chapter chair Eulalia Jimenez stood with Florida Governor Ron DeSantis for a press conference where he called on state legislators to codify the existing statewide ban on the use of “CRT” in schools.¹⁷⁴ Jimenez’s presence onstage drew criticism: shortly before the press conference, in a conspiratorial social media post, Jimenez spouted anti-trans rhetoric while also lambasting COVID-19 mask/vaccine requirements:

Muzzling humanity across the board is not political, mandating people to inject themselves with a poison is not political, men becoming women, women becoming men is not political. Children being smuggled in underground tunnels for the enjoyment of demons is not political. Wake up.¹⁷⁵

Describing the dangers of the supposed “contagion,” Moms for Liberty co-founder Tiffany Justice has joined calls nationally for parents to “fight back against the grooming of America’s children.”¹⁷⁶ On July 25, 2022, Justice tweeted that “[g]ender dysphoria is a mental health disorder that is being normalized by predators across the USA.”¹⁷⁷ In a long-form interview with far-right media personality Sebastian Gorka, himself a former Trump official, Justice claimed that teachers’ unions were to blame for schools pushing “gender” ideology on schoolchildren: “Who is driving this insanity, this radicalism,” Gorka asked, “this grooming sexually

of our children and what is the end state they wish to achieve?”¹⁷⁸ Justice responded that “there are people who *do* want to groom our children,”¹⁷⁹ continuing:

[W]hat does it say to a child when they’re walking into kindergarten and someone’s saying to them, “You can be a boy or you can be a girl or you can be a boy and a girl or you can be not a boy or a girl. You can be a tree today. Or a furry.” Which apparently is when a child thinks that they were born as a cat instead of a human being and, and the schools are just going along with it.¹⁸⁰

Such stories are untrue and purposely inflammatory.¹⁸¹ But in an era of rampant, and tragically recent, anti-LGBTQ+ rhetoric and mass violence, these statements from influential people near state power should not be brushed aside. Rhetoric directed at LGBTQ+ children themselves has become shockingly normalized. In a television panel interview on MSNBC, more members of the Moms for Liberty Miami chapter claimed it should not be an “open thing in classrooms” for LGBTQ+ students to discuss their identity — and beyond that, “[t]hey have to be into separate classrooms. . . . Like for example children with autism, Down syndrome.”¹⁸²

Different states have employed their own methods to link race- and identity-based legislation, “some fusing anti-CRT and anti-LGBTQ+ concepts together in the same provisions,” and others “tack[ing] on separate anti-CRT sections” to special anti-LGBTQ+ bill templates.¹⁸³ In Florida, for instance, DeSantis signed H.B. 1557 — titled the *Parental Rights in Education Act*, widely publicized as the “*Don’t Say Gay*” bill — which became effective on July 1, 2022.¹⁸⁴ H.B. 1557 purports to protect “parents’ rights” to defend their children from “sexualization” and “indoctrination” in schools; in practice, this means removing any inclusive representation of LGBTQ+ families, stories, and experiences in traditional school curriculum, and removing or canceling existing gender-affirming resources, policies, and safe spaces for LGBTQ+ youth.¹⁸⁵

Additionally, H.B. 1557 contains an enforcement provision mirroring the structure of Texas’ 2021 law S.B. 8 (the so-called *Texas Heartbeat Act*) which

allows private citizens to sue those who “aid or abet” an abortion after six weeks of pregnancy.¹⁸⁶ H.B. 1557 similarly grants parents legal standing to sue districts directly, potentially collecting damages and attorney’s fees in the process, if they are dissatisfied with a school’s adherence to H.B. 1557.¹⁸⁷ Other states that soon followed Florida’s lead and used Don’t Say Gay as a template for a combined race/identity law include Ohio, where legislators introduced H.B. 616, a bill “Regarding the Promotion and Teaching of Divisive or Inherently Racist Concepts in Public Schools,” on April 4, 2022.¹⁸⁸

The anti-“CRT”/LGBTQ+ movements include organized “book bans,” which have an extremely unsightly legacy. Moms for Liberty chapter members, for example, are wary of the label,¹⁸⁹ even as they work in near lockstep to advocate removing hundreds of books from school library shelves, the overwhelming majority of which depict the experiences and histories of racial and sexual minoritized groups.¹⁹⁰

These requests have come pursuant to the surge of newly adopted state and local laws and policies modeled after the E.O. For instance, the common “divisive concept” tenet that children should not be made to feel distressed, guilty, or anguished on account of their race may manifest in parent requests to ban books such as Toni Morrison’s novels *Beloved*¹⁹¹ and *the Bluest Eye*,¹⁹² Harper Lee’s *To Kill a Mockingbird*,¹⁹³ or films like 2016’s *Hidden Figures*, about three Black women who worked as mathematicians on the U.S.’s first manned orbital space flight in the early sixties, because it contains scenes in which a main character must walk a half mile from her work station to the nearest “Colored Bathroom” across the race- and gender-segregated NASA campus.¹⁹⁴ The Williamson County, Tennessee Moms for Liberty chapter even challenged titles like *Martin Luther King, Jr. and the March on Washington* and *Ruby Bridges Goes to School: My True Story* because children could be “emotionally traumatiz[ed]” and gain negative views of firemen and police officers if taught about “white firemen blasting black children [with a firehose] to the point of bruising their bodies and ripping off their clothes” or Bull Connor siccing attack dogs on civil rights demonstrators in Alabama.¹⁹⁵

And following the passage of *Don’t Say Gay*, anti-LGBTQ+ advocacy nationwide has even further “converg[ed]” with anti-“CRT” advocacy, leading to disturbing allegations that teachers and school librarians — as well as fellow parents who may be opposed to their ban efforts — are groomers and pedophiles supplying children with pornography.¹⁹⁶ “This bill in Florida wasn’t about homosexuality or heterosexuality,” Moms for Liberty co-founder Tiffany Justice claims, referring to H.B. 1557. “This was about children and *innocence*, and that’s something everyone can get behind.”¹⁹⁷

Just like the requests to remove racial content from curriculum, in these anti-LGBTQ+ book bans, any depictions, at all, of certain identity groups are framed as implicit attempts to recruit and corrupt kids. One of the most-commonly banned books of the last decade — 2014’s *I Am Jazz*, an illustrated children’s book detailing the experiences of a transgender child and her family¹⁹⁸ — was again swept into the national spotlight in 2022 when it was removed from Palm Beach County libraries and classrooms as a result of *Don’t Say Gay*.¹⁹⁹ While the book’s author, herself the mother of three cisgender boys, says it was meant to teach kids like her own to “be able to be compassionate and understand people that [a]re different” from them “so that they would grow up to be the kind of human beings [she] wanted them to be,”²⁰⁰ opponents have portrayed the book as yet another device for indoctrination.

“What I want to be really clear about is the books are a pretext,” says Ashley Hope Pérez, herself the author of a banned book, and “a proxy war on students who share the marginalized identities of the authors and characters in the books under attack.”²⁰¹ Trans-rights advocates, for their part, have also recognized the escalating rhetoric as part of a troubling effort to “dehumanize[e] and delegitimiz[e] queer people’s identities by associating them with pedophilia and child grooming.”²⁰² “What terrifies me is that when you start labeling groups with that,” activist and Harvard Law instructor Alejandra Caraballo said, “the calls for violence are inevitable.”²⁰³

CONCLUSION

As of the time of this Report's publication, Critical Race Theory has been under attack for over two years — and as this Report demonstrates, these campaigns have continually evolved, broadened in scope, and grown more extreme. The early months of 2023 well-illustrate this danger, as lawmakers have now begun crafting the next wave of laws and policies pursuant to the authority of the first generation of anti-“CRT” measures already codified in law and policy.

At DeSantis's order, for instance, the Florida Department of Education (FDOE) in January 2023 announced that the proposed curriculum for the College Board's new Advanced Placement course in African American Studies conflicted with the Stop W.O.K.E. and would therefore be banned in Florida high schools.²⁰⁴ In February 2023, the College Board issued a revised curriculum for the course which had “purged the names of many Black writers and scholars associated with critical race theory, the queer experience and Black feminism.”²⁰⁵ Shortly thereafter, leaked correspondence revealed that FDOE had for months been pressuring the College Board to alter the course to conform with the law.²⁰⁶ Even though a federal judge in the Northern District of Florida had just months prior called Stop W.O.K.E. “positively dystopian”²⁰⁷ and prevented it from being applied to Florida colleges and universities, the state wielded the law to urge a private business to cater to the state. As AP courses are standardized and administered nationally, Florida's efforts to change to course to comport with its law threaten to change the course for students nationwide.

Legal challenges to these laws as unconstitutional infringements on First Amendment and other constitutional rights require long and often expensive litigation. Even if successful such lawsuits will not address the ongoing impact of these laws which both directly and indirectly restrict students' access to information and intimidate and chill educators.

Anti-“CRT” activity has not been without opposition, with challenges emerging immediately after the E.O.'s

release. The E.O. was the subject of a successful legal challenge, and the incoming Biden administration rescinded it.²⁰⁹ And across the country, advocates have been mounting litigation strategies against, for example, Florida's the Stop W.O.K.E. Act.²¹⁰ The African American Policy Forum is engaged in direct advocacy with the #TruthBeTold campaign.²¹¹

Since this earlier period, the campaign against “Critical Race Theory” has mutated and proliferated far beyond the bounds of the Executive Order. Today, no across-the-board strategy could possibly counter the full extent of the attacks. Instead, the most crucial resistance need take place in individual states, school districts, and even classrooms. CRT Forward's broader mission — to provide a comprehensive account of the full extent of anti-“CRT” activity useful to advocates, journalists, academics, and the general public — remains the same in 2023, and Tracking Project staff will continue collecting and analyzing the type of data highlighted in this report. However, the work, necessarily, will also expand focus.

Since the Project team began screening media articles in summer 2021, our researchers have been assembling preliminary data surrounding litigation brought by plaintiffs challenging the legality of anti-“CRT” measures. CRT Forward has sought to provide information to the public about the origin and impact of the anti-CRT campaign. While engaging in this work we have already encountered many thoughtful, nuanced perspectives from teachers and educational experts. For instance, some writers have highlighted the value of existing frameworks which, although not Critical Race Theory, may nonetheless “provide[] a model for effectively responding to th[e] trend” of anti-“CRT” measures.²¹² Proponents of Culturally-Responsive Education (CRE), for example, have recognized that though CRT and CRE are distinct theories which address different subjects, CRE's goals may help “actively counter” the secondary effects of many anti-“CRT” bans.²¹³

To complement these efforts, CRT Forward will produce model-“pro-CRT” policies and resolutions to aid advocates to counter the regressive efforts to censor robust antiracism education. These model measures

would directly challenge the notion that principles underlying CRT, such as the concept of structural racism, are inherently “divisive” and support the incorporation of such ideas into course instruction as legitimate educational content.

The classroom has long been, and remains, a profoundly important space. In the U.S. Supreme Court’s perhaps most highly-celebrated decision, *Brown v. Board of Education*, the Court unanimously proclaimed that “[t]oday, education is the most important function of state and local governments. . . . It is required in the performance of our most basic public responsibilities It is the very foundation of good citizenship.”²¹⁴

Elsewhere, the Court has repeatedly cautioned that “[t]eachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.”²¹⁵ All told, the Constitution does not tolerate “government attempts to ‘cast a pall of orthodoxy over the classroom.’”²¹⁶ We must stay vigilant in order to realize these lofty ideals. The health of our democracy depends on it.



- 1 Brian Lopez, *How a Black High School Principal was Swept Into a 'Critical Race Theory' Maelstrom in a Mostly White Texas Suburb*, TEXAS TRIBUNE (Sept. 18, 2021), [<https://perma.cc/AHL7-THLE>].
- 2 *Id.*
- 3 Timothy Bella, *A Black Principal was Accused of Embracing Critical Race Theory in the Classroom. He's Now Out of a Job*, WASH. POST (Nov. 10, 2021), [<https://perma.cc/X7NE-M54J>].
- 4 Elizabeth Campbell, *Colleyville Heritage Students Stage Walkout to Support School's First Black Principal*, FORTWORTH STAR-TELEGRAM (Sept. 10, 2021), [<https://web.archive.org/web/20210922212511/startelegram.com/news/local/education/article254136543.html>].
- 5 Katie Shepherd, *Texas Parents Accused a Black Principal of Promoting Critical Race Theory. The District Has Now Suspended Him*, WASH. POST (Sept. 1, 2021), [<https://perma.cc/EZ2F-KHA2>]. See also Joelle Goldstein, *Principal Speaks Out After School District Brands His Anniversary Pic with Wife 'Questionable,'* PEOPLE (Aug. 3, 2021), [<https://perma.cc/K845-CWNA>], where the author notes that Whitfield's wife Kerrie "assumed the issue with the photos was that Whitfield was a Black man with a tattoo on his arm, which was inappropriate. Whitfield thought the problem was him being in an interracial relationship." In either case, Whitfield says, when he "got off the phone" with the district, Kerrie "sat there in tears. . . . No one from 'above' ever mentioned anything else about it, but the damage was inflicted on us in profound ways." *Id.*
- 6 John Rogers; Joseph Kahne; et al., *Educating for a Diverse Democracy: The Chilling Role of Political Conflict in Blue, Purple, and Red Communities*, UCLA INST. FOR DEMOCRACY, EDUC., AND ACCESS, 1 (Nov. 2022), [<https://perma.cc/DH4W-WMAP>].
- 7 *Id.* at 19.
- 8 Andrew Lawrence, *'Our Job is to Present the Truth': the Texas Principal Caught in a 'Critical Race Theory' Firestorm*, THE GUARDIAN (Jan. 13, 2022), [<https://perma.cc/6H7Y-C2YA>].
- 9 *Id.*
- 10 GCISD Schools, Video: *Former School Board Candidate Calls for Firing of Colleyville Heritage HS Principal*, FORT WORTH STAR-TELEGRAM (Aug. 3, 2021) (beginning at 2:18), [<https://web.archive.org/web/20210903203841/https://www.star-telegram.com/news/local/article253238543.html>].
- 11 Karen Attiah, *For Educators Under Assault, Federal Involvement is Welcome — But it's Not Enough*, WASH. POST (Oct. 12, 2021), [<https://perma.cc/Z5T7-T5MU>] ("They told me he was just being drunk," [Whitfield] said. . . . "This behavior is excused.").
- 12 E.g., Marvie Basilan, *Critical Race Theory Backlash Widens: Texas School Principal Forced Out*, INT'L BUS. TIMES (Nov. 10, 2021), [<https://perma.cc/PK53-Y2KR>].
- 13 Hannah Natanson, *These Texas Teens Stayed Silent About Racism. Then Their Black Principal was Suspended*, WASH. POST (Oct. 8, 2021), [<https://perma.cc/4X3J-GVG7>].
- 14 Lopez, *supra* note 1. Other reports note that after the "dividing the community" line, "the entire room, which was full of parents and community members, busted out laughing. One person was yelling repeatedly at the school board, 'You are full of it,' in more explicit terms. That showed there were a lot of people in support of Dr. Whitfield throughout that hearing." CNN *Newsroom with Alisyn Camerota and Victor Blackwell*: "TX Principal's Job at Stake Over his Stance on Critical Race Theory," CNN television broadcast (Sept. 21, 2021). As a result of the vote, Dr. Whitfield's future as principal depended on the outcome of a formal hearing held seven weeks later on November 8, 2021.
- 15 Miranda Suarez, *'I'm Feeling Really Hopeful': Ex-Principal Whitfield Speaks Out After Losing His Job in Colleyville*, KERA NEWS (Nov. 9, 2021), [<https://perma.cc/5NTD-7RTR>].
- 16 *Id.*
- 17 History.com Editors, *George Floyd is Killed by a Police Officer, Igniting Historic Protests*, HISTORY (May 24, 2021), [<https://web.archive.org/web/20210525115630/http://history.com/this-day-in-history/george-floyd-killed-by-police-officer>].
- 18 Audra D. S. Burch; Weiyi Cai; Gabriel Gianordoli; Morrigan McCarthy; and Jugal K. Patel, *How Black Lives Matter Reached Every Corner of America*, N.Y. TIMES (June 13, 2020), [<https://perma.cc/H4NF-HZU5>].
- 19 Larry Buchanan; Quoc Trung Bui; Jugal K. Patel, *Black Lives Matter May be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), [<https://perma.cc/5BRW-D7EF>] (noting that four recent polls "suggest that about 15 million to 26 million people in the United States have participated in demonstrations over the death of George Floyd and others in recent weeks").
- 20 Robert Mackey; Travis Mannon, *Meet the Riot Squad: Right-Wing Reporters Whose Viral Videos Are Used to Smear BLM*, THE INTERCEPT (May 13, 2021), [<https://perma.cc/PR4L-SQ6E>] (describing a "tight-knit group" of eight amateur videographers who trawl the fringes of protest demonstrations to supply brief chaotic clips to be replayed ad nauseum on TV and online. The effect of this is to amplify scenes which are overwhelmingly unrepresentative of typical protests. See, e.g., Sam Jones, *US Crisis Monitor Releases Full Data for 2020*, ACLED / BDI (Princeton University) (Feb. 5, 2021), [<https://perma.cc/2G8G-GRVX>] (noting that of the 10,330 protests tallied, 94 percent "involved no violent or destructive activity" at all).
- 21 National Archives Museum, *Remarks by President Trump at the White House Conference on American History*, WHITE HOUSE (Sept. 17, 2020), [<https://perma.cc/LL2D-8Y6P>] (hereinafter "Trump Remarks on American History").
- 22 See discussion beginning in body text *infra* at Part I.B.
- 23 Trump Remarks on American History, *supra* note 21.
- 24 *Id.* ("We must clear away the twisted web of lies in our schools and classrooms, and teach our children the magnificent truth about our country.").
- 25 Exec. Order No. 13950, 85 Fed. Reg. 60683 (Sept. 22, 2020), [<https://perma.cc/PW8Q-4PF2>].
- 26 *Id.*
- 27 The OCR has authority locally to "investigate[] and resolve[] complaints of discrimination" in King County, and the Office's stated mission is to "eliminate unlawful discrimination through education, mediation, and enforcement that is responsive to a diverse" community. Civil Rights Program, *Our Mission*, KING COUNTY EXECUTIVE (last updated July 24, 2018), [<https://perma.cc/PBN7-JYSZ>].
- 28 Christopher F. Rufo (@realchrisrufo), TWITTER (Jul. 24, 2020, 5:14 PM), [<https://web.archive.org/web/2020126022410/https://twitter.com/realchrisrufo/status/1286816967718875136>] (thread summarizing the "trove of leaked documents"). The Internet Archive *Wayback Machine* indicates Rufo had 13.3K followers on June 26, 2020, a number which grew to 48K on (next archived date) August 13, 2020. See *id.* (archived at *Wayback Machine*, [web.archive.org/web/20200901000000/twiter.com/realchrisrufo]).
- 29 The anti-bias training program was performed in the context of a new Seattle and King County push to reduce both police department and county jail budgets in pursuit of "Zero Youth Detentions." See Dep't. of Pub. Health — Seattle & King County, *ROAD MAP TO ZERO YOUTH DETENTION* (last updated June 22, 2020), [<https://perma.cc/NN6KY7MB>].
- 30 Benjamin Wallace-Wells, *How a Conservative Activist Invented the Conflict Over Critical Race Theory*, NEW YORKER (June 18, 2021), [<https://perma.cc/P8VS-C77P>].
- 31 *Id.*
- 32 *Id.* (quoting the author's phone conversation with Professor Crenshaw).
- 33 Christopher F. Rufo (@realchrisrufo), TWITTER (Mar. 15, 2021) (from threaded tweets posted at 12:14 PM and 12:17 PM), [<https://web.archive.org/web/20210806175836/twiter.com/realchrisrufo/status/1371540368714428416>].
- 34 *Tucker Carlson Tonight*: "Political Violence is the Greatest Threat We Face; Federal Workers Forced to Attend Seminars on White Privilege and Microaggression[.]" FOX NEWS NETWORK television broadcast (Sept. 2, 2020). Reporting in the Washington Post observes that prominent examples of government-led CRT "cult indoctrination" offered by Rufo are either false, mischaracterized, or unsupported by available evidence. Laura Meckler; Josh Dawsey, *Republicans, Spurred by an Unlikely Figure, See Political Promise in Targeting Critical Race Theory*, WASH. POST (June 21, 2021), [<https://perma.cc/6BPW-94Gk>] (under a heading titled "Questionable evidence").
- 35 Meadows later claimed that "[t]his wasn't the first time we had been tipped off by a good report on *Tucker Carlson Tonight*." Bryan Metzger; Jake Lahut, *Trump Issued an Executive Order on Critical Race Theory After Seeing a Segment About it on Tucker Carlson's Show: Book*, BUSINESS INSIDER (Dec. 7, 2021), [<https://perma.cc/XZD6-TL8C>].
- 36 Off. of Mgmt. and Budget, M-20-37: "Unlikely Figure, See Political Promise in Targeting Critical Race Theory After Seeing a Segment About it on Tucker Carlson's Show: Book," BUSINESS INSIDER (Dec. 7, 2021), [<https://perma.cc/XZD6-TL8C>].
- 37 Exec. Order No. 13950, *supra* note 25, at 60683.
- 38 *Id.*
- 39 *Id.*
- 40 *Id.*
- 41 *Id.*
- 42 *Id.*
- 43 *Id.* at 60683–84.
- 44 *Id.* at 60684.
- 45 *Id.*
- 46 *Id.* at 60685.
- 47 *Id.* at 60685–60687.
- 48 *Id.* at 60688.
- 49 *Id.* at 60685.
- 50 *Id.* (also noting that "[r]ace and sex stereotyping refers to 'ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex'; and race/sex scapegoating refers to 'assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.'").

- 51 See Michele Dauber (@mldauber), TWITTER (Nov. 15, 2020), [[web.archive.org/web/20201116071625/https://twitter.com/mldauber/status/1328235391019728896](https://archive.org/web/20201116071625/https://twitter.com/mldauber/status/1328235391019728896)].
- 52 Colleen Flaherty, Stanford Nixes Diversity Order Compliance Checklist, INSIDE HIGHER ED. (Nov. 20, 2020), [<https://perma.cc/F2EJ-ALHD>].
- 53 *Id.*
- 54 About us, MOMS FOR LIBERTY (archived Feb. 16, 2023), [<https://perma.cc/7LZ7-DPWJ>] (language pulled from the footer and body text in the “Who We Are” section).
- 55 Olivia Little, *Unmasking Moms for Liberty*, MEDIA MATTERS (Nov. 12, 2021), [<https://perma.cc/2HPV-K27H>].
- 56 Zac Anderson, *What is Moms for Liberty? Here’s a Look at Its Roots, Its Philosophy and Its Mission*, TCPALM (Dec. 10, 2021), [<https://perma.cc/DG8H-YLA5>]; Khaleda Rahman, *What is Moms for Liberty? Group Hoping to Win 270 School Board Elections*, NEWSWEEK (Nov. 3, 2022), [<https://perma.cc/G7N3-JB2F>].
- 57 Jo Napolitano, *Moms for Liberty Co-Founder on Parent ‘Warriors’ Who Challenge School Boards*, THE 74 (Nov. 1, 2021), [<https://perma.cc/P9EX-W4JQ>] (interview rehosted on Yahoo! website).
- 58 Laura Cassels, *Moms in ‘Liberty’ Group Fight School Mask Mandates as COVID Spikes in Schools*, FLA. PHOENIX (Aug. 24, 2021), [<https://perma.cc/T4NF-EYJC>].
- 59 Aila Slisco, *Anti-CRT Group Crows About Flipping School Boards Conservative*, NEWSWEEK (Aug. 23, 2022), [<https://perma.cc/3Y4L-Y5WL>].
- 60 *Id.*
- 61 Sarah Schwartz, *Who’s Really Driving Critical Race Theory Legislation? An Investigation*, EDUC. WEEK (July 19, 2021), [<https://perma.cc/UZL9-KBRT>] (writing that their reporting “uncovered a complex web of individuals and conservative organizations that are writing model legislation and supporting these state-level bills”).
- 62 *Id.*
- 63 Bill Allison, *Trump Acolytes Craft Parallel GOP Universe so Trumpism Lives on*, BLOOMBERG (May 25, 2021), [<https://perma.cc/8KFY-JN2U>].
- 64 *Protecting K–12 Students from Discrimination*, HERITAGE FOUNDATION (June 18, 2021), [<https://perma.cc/P4QU-XAYR>] (“This is a model bill meant for state lawmakers to use regarding K–12 schools.”).
- 65 1776 United Initiative, *Our Open Letter to the National School Boards Association & Local School Boards*, WOODSON CENTER (Aug. 16, 2021), [web.archive.org/web/20210816174215/https://1776unites.com/essays/ouropen-letter-to-public-school-boards] (outlining a model curriculum employing ideology linked to anti-CRT movement).
- 66 *The Teaching Racial and Universal Equality (“TRUE”) Act*, ALLIANCE FOR FREE CITIZENS, 1–3 (first archived July 27, 2021), [web.archive.org/web/20210727175358/https://www.allianceforfreecitizens.org/wpcontent/uploads/sites/6/2021/02/Model_Teaching_Racial_and_Universal_Equality_Act.pdf]. The content of the model bill was first prominently featured in an action proposed and referred to the Pennsylvania House Committee on Education on June 7, 2021. See H.B. 1532, Reg. Sess. (Penn. June 7, 2021), [<https://perma.cc/35R4-RQ3B>].
- 67 James R. Copland, *How to Regulate Critical Race Theory in Schools: a Primer and Model Legislation*, MANHATTAN INST., 1, 8–10 (Aug. 26, 2021), [<https://perma.cc/8EDH-9CFG>].
- 68 *Id.* at 8.
- 69 For instance, such tracked activity, not strictly “legislative” in nature, could include local school board or district activity (e.g., executive directives, regulations, attorney general opinions, gubernatorial executive orders, state attorney general legal opinions, or official statements from school boards/trustees).
- 70 These progress updates list whether an activity is “pending” (i.e., has been proposed and is under consideration); “adopted” (now in effect); “withdrawn/expired” (proposed but no longer under consideration); or “introduced and failed” (defeated by vote or veto).
- 71 Content triggers include invoking CRT or the 1619 Project; targeting “divisive concepts” and “controversial issues”; or employing any of several concepts birthed in Exec. Order No. 13950, *supra* note 25, at 60685.
- 72 Delaware is the only exception, with no anti-CRT activity either at the state level or locally.
- 73 See *infra* at Table 2.
- 74 Activity “types” are designated based on the (1) issuing body and (2) form of document released. As an example, there are several forms of activity types that an “Executive” body could issue: alternately, an (a.) memorandum/opinion exploring the legality of CRT instruction based on analysis of existing applicable law and court decisions would be coded as an “Attorney General Letter,” while a (b.) message from the Governor and/or Office of the Attorney General which declares/communicates the official position of the administration would be coded as a “Statement”; further, if the Executive (c.) is authorized to issue a legally-binding directive commanding others to act or refrain from acting in a particular way, the activity would be coded as an “Executive Directive.” For more information, see *Methodology*, CRT FORWARD TRACKING PROJECT (archived Feb. 16, 2023), [<https://perma.cc/P3VQ-WSDS>].
- 75 Note too that our methodology does not tally certain dimensions of anti-CRT local school board activity which nonetheless can be plentiful and fierce: the “media-fueled, broadly connected, and often powerful partisan efforts to incite and support local community members to target teaching and diversity work in schools and districts, often by distorting educators’ work.” See Mica Pollock; John Rogers; et al., *The Conflict Campaign: Exploring Local Experiences of the Campaign to Ban “Critical Race Theory” in Public K–12 Education in the U.S., 2020–21*, UCLA INST. FOR DEMOCRACY, EDUC., AND ACCESS, i, vi (Jan. 2022) (hereinafter the “Conflict Campaign”), [<https://perma.cc/9FZ3-Z4CZ>] (noting their project “found that at least 894 school districts, enrolling 17,743,850 students, or 35% of all K–12 students in the United States, have been impacted by local anti “CRT” efforts”).
- 76 Exec. Order No. 13950, *supra* note 25, at 60685 (in Sec. 2, listing “[d]efinitions” of divisive concepts).
- 77 S.B. 627, 93rd Gen. Assemb., Reg. Sess., 1 (Ark. 2021), [<https://perma.cc/MMR3-FRXL>].
- 78 *Id.* at 2.
- 79 See Sean P. Ray, *Penncrest School Board Addresses Critical Race Theory*, MEADVILLE TRIB. (Aug. 11, 2021), [<https://perma.cc/GKW3-MJFS>]; and Sean P. Ray, *Penncrest School Board Approves Anti-CRT Policy Change*, MEADVILLE TRIB. (Mar. 11, 2022), [<https://perma.cc/675K-NKJ8>].
- 80 Policy Manual, S100, Penncrest Sch. Dist., (last rev. Mar. 10, 2022), [<https://perma.cc/JZ26-V9FU>].
- 81 Exec. Order No. 13950, *supra* note 25, at 60685. See body text *supra* at n.50 for this language in full.
- 82 The 1619 Project, a long-form series developed by journalist Nikole Hannah-Jones and published in the *New York Times Magazine* beginning in August 2019, is frequently referenced by anti-CRT actors and commentators to suggest it is affiliated or coterminous with Critical Race Theory. See Conflict Campaign, *supra* note 75, at 28 (noting “[a]s ‘CRT’ became a catch-all” label for objected-to materials, “rage against ‘CRT’ at times named the 1619 Project specifically”). In a workshop produced by conservative political organization ALEC in December 2020, the group alleged “[t]he 1619 curriculum is infecting our schools. Diversity training is taking over our workplaces. How do patriotic Americans respond? Tune in as the Heritage Foundation has a conversation about the threat of Critical Theory manifesting in society and the important role state leaders play in reclaiming education and the American Dream.” *Id.* at 44. Even though banning the 1619 Project by name is relatively rare, an example of an umbrella divisive concept (not found in E.O. 13950, but occasionally included in resulting bans) originating in anti-1619 Project sentiment is the idea that any time other than 1776 constituted the “true founding” of the United States. *E.g.*, H.B. 1835, 101st Gen. Assembly Reg. Sess. (Mo. Dec. 5, 2021), [<https://perma.cc/A276-WN8J>] (item h., “[t]he advent of slavery in the territory that is now the United States constituted the true founding” of the U.S.).
- 83 See Amanda Kesting, *Douglas County School Board Approves Resolution Recommending Changes to Educational Equity Policy*, 9NEWS NBC [KUSA, Denver, CO] (Jan. 25, 2022), [<https://perma.cc/NBA4-YF8M>].
- 84 Res. Concerning “Culture of Individual Excellence and Inclusion,” Douglas Cty. Sch. Dist. RE-1, 1 (adopted Jan. 25, 2022), [<https://perma.cc/3ZYP-6DB7>].
- 85 *Id.*
- 86 H.B. 1886, 67th Legis. Reg. Sess., 1 (Wash. Jan. 11, 2022), [<https://perma.cc/TPE3-C3GU>] (read first time).
- 87 The remaining ~6% is federal activity (34).
- 88 *Id.*
- 89 *Id.* at 9.
- 90 *Id.*
- 91 See, e.g., Kathryn Joyce, *Moms for Liberty: “Joyful Warriors” in the Fight to Demolish Public School*, SALON (July 19, 2022), [<https://perma.cc/KCM2-H8VE>] (“[T]hey gave Ron DeSantis a sword,” the subtitle reads. “That wasn’t the strangest or scariest part by far.”).
- 92 Kathryn Varn, *DeSantis to Conservative Moms for Liberty: “You Gotta Stand up, and You Gotta Fight,”* TALLAHASSEE DEMOCRAT (July 15, 2022), [<https://perma.cc/73K8-NJTV>] (quoting DeSantis’s remarks).
- 93 Kathryn Varn, *Moms for Liberty to Host Inaugural Summit Amid Rapid Growth in Membership — and Notoriety*, TALLAHASSEE DEMOCRAT (July 13, 2022), [<https://perma.cc/9YSF-AMNR>] (quoting M4L co-founder Tiffany Justice’s description of the event).
- 94 See Kerry Sheridan, *Moms for Liberty Aims to Expand Political Influence, Bolstered by Trainings, Endorsements*, WFME.ORG (July 18, 2022), [<https://perma.cc/PJ9M-EP8P>]. The author lists examples of programming at the Joyful Warrior conference, where, e.g., “learning how to run for office was a focus of numerous breakout sessions, with titles like ‘Winning By the Numbers,’ ‘Vetting Candidates,’ and ‘Are You Ready To Run.’ led by The Leadership Institute, a multimillion dollar conservative organization based in Arlington, Virginia.” *Id.*

- 95 Ron DeSantis (@RonDeSantisFL), TWITTER (Aug. 23, 2022, 10:19 AM), [<https://web.archive.org/web/20220825134148/https://twitter.com/RonDeSantisFL/status/1562127282398969858>].
- 96 Kathryn Joyce, *Far Right Claims Big Wins in Florida School Board Races — But the Fight is Just Starting*, SALON (Aug. 25, 2022), [<https://perma.cc/3XYW-T9W7>].
- 97 *Id.* (noting that “[o]n Wednesday, Moms for Liberty boasted that 43 candidates it had backed had either won their races or were advancing to runoffs”).
- 98 Aila Slisco, *Anti-CRT Group Crows About Flipping School Boards Conservative*, NEWSWEEK (Aug. 23, 2022), [<https://perma.cc/RE4X-B348>] (“The 1776 Project political action committee . . . describes itself as being ‘dedicated to electing school board members committed to abolishing CRT from the public school curriculum.’”).
- 99 *Id.*
- 100 See Maya Riser-Kositsky, *Education Statistics: Facts About American Schools*, EDUC. WEEK (updated Aug. 2, 2022), [<https://perma.cc/5ZBV-AXYX>].
- 101 Fla. Stat. Ann. § 1000.05 (West).
- 102 On November 17, 2022, federal Judge Mark E. Walker of the Northern District of Florida issued a preliminary injunction halting enforcement of Stop W.O.K.E., calling it “positively dystopian” and noting that the challengers were likely to prevail on First Amendment grounds. See *Pernell v. Fla. Bd. of Governors of State Univ. Sys.*, *Pernell v. Fla. Bd. of Governors of State Univ. Sys.*, No. 4:22CV304-MW/MAF, 2022 WL 16985720, at *2 (N.D. Fla. Nov. 17, 2022). “[T]he First Amendment does not permit the State of Florida to muzzle its university professors, impose its own orthodoxy of viewpoints, and cast us all into the dark.” *Id.* at 135.
- 103 Daniel Golden, *Muzzled by DeSantis, Critical Race Theory Professors Cancel Courses or Modify Their Teaching*, PROPUBLICA (Jan. 3, 2023), [<https://perma.cc/3JQD-HNX5>] (emphasis added).
- 104 Curtis Bunn, *Why Tenure is So Important — Yet Rare — for Black Professors*, NBC NEWS (July 18, 2021), [<https://perma.cc/48KA-YCJY>]. A 2016 blog post for the American Sociological Association’s publication *Contexts* estimates that there are 14,400 Black tenured academics in total, “constitut[ing] only 4.7% of the total number [303,186] of tenured academics in the US.” Kim Weeden, *No, 96% of Black Tenured Faculty Are Not at HBCUs*, CONTEXTS (Feb. 7, 2016), [<https://perma.cc/Z3MB-M2NT>] (noting that 22% of these 14,400 teach at Historically Black Colleges and Universities).
- 105 *Id.*
- 106 See, e.g., Eesha Pendharkar, *He Taught About White Privilege and Got Fired. Now He’s Fighting to Get His Job Back*, EDUC. WEEK (Sept. 13, 2021), [<https://perma.cc/Z28D-63AG>]; Sarah Elbeshbishi, *A Critical Time: Small Handful of Educators Losing Jobs for Lessons Linked to Race, Not CRT*, USA TODAY (Dec. 4, 2021), [<https://perma.cc/SBQ2-TRHQ>].
- 107 Pendharkar, *supra* note 106.
- 108 Complaint at 1, 3, 18, *Matthew Hawn v. Sullivan Cnty. Bd. of Educ.* (Tenn. Ch. 2022) (No. 22-CV-18963), [<https://perma.cc/LMN6-JGFK>] (language from Mr. Hawn’s petition for writ of certiorari, filed in the Chancery Court for Sullivan County, seeking judicial review of the Board of Education’s decision to release him).
- 109 *Id.* at 19.
- 110 See, e.g., Hannah Natanson, *A White Teacher Taught White Students About White Privilege. It Cost Him His Job*, WASH. POST (Dec. 6, 2021), [<https://perma.cc/36QB-46VS>].
- 111 See Elbeshbishi, *supra* note 106.
- 112 See, e.g., Julie Bosman, *A Timeline of the Kyle Rittenhouse Shootings and His Trial*, N.Y. TIMES (Nov. 1, 2021), [<https://perma.cc/EWW5-ZDMJ>].
- 113 Complaint, *supra* note 108, at 5–6.
- 114 *Id.* at 6.
- 115 Pub. Ch. 493, 2021 Gen. Assembly. Reg. Sess., 1 (Tenn. 2021) (Pub. Ch. 493), [<https://perma.cc/N2RY-EQBH>] (indicating the Act is “[s]ubstituted for: ‘House Bill No. 580’”).
- 116 *Id.* at 6.
- 117 Complaint, *supra* note 108, at 9.
- 118 *Id.* at 12.
- 119 Pendharkar, *supra* note 106.
- 120 For coverage of two such laws, see, e.g., Damien Fisher, *Youngkin Follows NH’s Lead with Anti-CRT ‘Tip Line.’* NH JOURNAL (Jan. 25, 2022), [<https://perma.cc/NZCM-MYYN>] (“Virginia’s newly elected Republican Gov. Glenn Youngkin is borrowing a page from New Hampshire by setting up an email tipline for parents to report on teachers who use [CRT] curriculum in the classroom.”).
- 121 Kim Houghton, Commc’n Adm’r, Press Release: *“NHDOE Launches Webpage for Reporting Alleged Discrimination in Schools.”* N.H. DEP’T OF EDUC. (Nov. 10, 2021), [<https://perma.cc/4LXZ-JX3P>] (announcing the state Department of Education “has launched a new webpage in support of the New Hampshire Commission on Human Rights aimed to ensure that students and educators are free from discrimination, and that they have the opportunity to learn and teach in a safe environment”). In the parlance of the Bill, “discrimination” is equated with instruction on standard boilerplate *divisive concepts* language. “This project,” the press release continues, “was spearheaded following the passage of House Bill 2, Right to Freedom from Discrimination in Public Workplaces and Education.” *Id.*; see H.B. 2, 2021 Reg. Sess. (N.H. June 24, 2021), [<https://perma.cc/YNS7-CEFX>].
- 122 Rogers; Kahne; et al., *supra* note 6, at 6 (also noting that “[o]ne of the big pushes is [from] a group called Protect Nebraska Children — they are actually funded by a group out of Arizona” called “Family Watch International”).
- 123 The authors quote from an interview with a principal who says his school’s teachers “ha[ve] become scared . . . worried that . . . if I talk about the Civil Rights Movement and Jim Crow, am I going to be accused of telling White people they are bad?” *Id.* at 3. “These concerns,” the authors report, “have affected teachers’ willingness to address certain topics and have led some to consider retirement.” *Id.*
- 124 *Id.* at 14–15.
- 125 *Id.* at 12 (quoting two principles, one of whom “notice[s] . . . the increasing incivility among students falling along partisan lines,” with the other reporting in their school’s students “a level of intolerance and refusal to understand the other side that [she] ha[d]n’t seen before the pandemic”).
- 126 *Id.* at x.
- 127 *Id.* at ix.
- 128 *Id.* (stating that “[a] North Carolina principal described these advocates as ‘small clusters of hate’”). “[O]ne [school] counselor described to me how a parent screamed at her on the phone and called her a ‘homo lover;’” a California principal reports. *Id.* at 21. “One of the parents was concerning to me personally with his vitriol and his anger and calling me a ‘liberal communist moron,’” another principal said. *Id.* at 6.
- 129 *Id.* at 7 (emphasis supplied).
- 130 *Id.* at ix.
- 131 *Id.* at 18.
- 132 *California Counties by Population*, DEMOGRAPHICS BY CUBIT (last visited Nov. 17, 2022), [<https://perma.cc/5D8M-M8LX>] (listing 9,829,544 for LA County and 1,235 for Alpine).
- 133 See Tony Thurmond, *News Release: California Department of Education Releases 2021–22 Statewide School Enrollment Data*, CALIF. DEP’T. OF EDUC. (Apr. 11, 2022), [<https://perma.cc/42FD-82Q3>] (stating enrollment was “down” 6,002,523 to 5,892,240 from the 2020–21 to 2021–22 academic years).
- 134 Kenneth P. Miller, *How California Turned Blue*, in *TEXAS VS. CALIFORNIA: A HISTORY OF THEIR STRUGGLE FOR THE FUTURE OF AMERICA*, 109, 126–27 (2020) (figures showing affiliation in the California Senate and California Assembly from 1919–2019). Federally, since 1992, California has sent only Democrats to the U.S. Senate and voted blue in Presidential elections. *Id.* at 119.
- 135 *Id.* at 126, 127.
- 136 These numbers roughly mirror the state’s federal representation in the U.S. House of Representatives, where 42 of California’s 53 total Congressmembers are Democrats.
- 137 The National Center for Education Statistics projects Wyoming’s total public school enrollment in the 2021 academic year was 92,800. See Cristobal de Brey; Thomas D. Snyder; Anlan Zhang; Sally S. Dillow, *Table 203.20. Enrollment in Public Elementary and Secondary Schools, by Region, State, and Jurisdiction*, 55 DIGEST OF EDUC. STATISTICS 76–77 (2021), [<https://perma.cc/E7Q6-HCLP>]. Currently, Wyoming only has one resolution actually in effect, in the Carbon County School District No. 2, which serves a total enrollment of 648 students. Res., Carbon Cty. Sch. Dist., 2 (Oct. 18, 2021), [<https://perma.cc/G5PF-KR5H>] (Board of Trustees meeting minutes, labeled “Critical Race Theory Resolution”).
- 138 See Allan James Vestal; Andrew Briz; Annette Choi; Beatrice Jin; Andrew McGill; Lily Mihalik, *California Presidential Results*, POLITICO (last updated Jan. 6, 2021), [<https://perma.cc/3HCC-SJ22>] (6,006,429 Trump votes to 11,110,250 for Biden).
- 139 Res. No. 21-12, Placentia-Yorba Linda Unified Sch. Dist. (adopted Apr. 5, 2022), [<https://perma.cc/Z67M-2YRK>].
- 140 Bd. Policy 6144, Placentia-Yorba Linda Unified Sch. Dist., 12–15 (adopted June 21, 2022), [<https://perma.cc/62NN-MKUM>] (attached to Board Minutes).
- 141 The listed definition, pulled from the California Ethnic Studies Model Curriculum, states that CRT “recognizes that race is not biologically real but is socially constructed and socially significant[; and] acknowledges that racism is embedded within systems and institutions that replicate racial inequality — codified in law, embedded in structures, and woven into public policy.” Res. No. 21-12, *supra* note 139, at 2. See *Ethnic Studies Model Curriculum*, Chapter 3: Instructional Guidance, 45 n.13 (approved

- by State Board of Education March 18, 2021), (under heading “Useful Theory, Pedagogy, and Research”), [<https://perma.cc/LK44-LDGH>] (this definition itself cites to and pulls language from a publication produced by the American Bar Association: see Janel George, *A Lesson on Critical Race Theory*, HUM. RTS MAG. (Jan. 11, 2021), [<https://perma.cc/4KHA-PC5P>]).
- 142 Res. No. 21-12, *supra* note 139, at 1.
- 143 *Id.* at 2.
- 144 *Id.*
- 145 *Id.* at 1, 2.
- 146 Bd. Policy 6144, *supra* note 140, at 12.
- 147 *Id.* at 13.
- 148 The Policy provides no further detail besides that these legal requirements are “such as” those regarding “comprehensive sexual health and HIV prevention education.” *Id.*
- 149 Minutes – Board of Education, Visalia Unified Sch. Dist., Encl. 19, 8–9 (Aug. 10, 2021), [<https://perma.cc/G6H5-UGQ3>] (listed as item 7.2).
- 150 Reggie Ellis, *VUSD Takes Control Away from Charter School*, SUN GAZETTE NEWSPAPER (Sept. 1, 2021), [<https://perma.cc/9BGR-U562>] (noting that “Newsela is aligned with state standards for science, social studies and [English and Language Arts] in every state”).
- 151 *Id.*
- 152 *Id.*
- 153 *Id.* (noting there was only one non-Board Member to speak publicly against Newsela, a man who said he “had researched public comments about the use of Newsela in other public school districts and found most of the concerns were about its use of ‘biased materials,’” citing examples like CNN, the New York Times, and the Washington Post). See also Carly Mayberry, *Critical Race Theory Being ‘Rebranded’ in Schools as Workaround, Conservative Group Says*, NEWSWEEK (Mar. 28, 2022), [<https://perma.cc/C8SZ-GCY3>] (describing the findings of an undercover “investigation” conducted by an ex-member of far-right activist group Project Veritas, known for releasing fraudulent and deceptively edited “sting” videos created using secret recording devices). See, e.g., Shawn Boburg; Aaron C. Davis; Alice Crites, *A Woman Approached the Post with Dramatic — and False — Tale About Roy Moore. She Appears to be Part of Undercover Sting Operation*, WASH. POST (Nov. 27, 2017), [<https://perma.cc/ZSE5-W43P>] (describing in detail the operation of Project Veritas). In a video released by the man’s new group (“Accuracy in Media,” which as of Feb. 26, 2023 has 5,460 YouTube subscribers), he alleges that “parents are now catching on to the fact that Newsela is another trojan horse that gets used to advance critical race theory.” Accuracy in Media, *Idaho Schools BREAK Critical Race Theory Ban*, YOUTUBE (Mar. 23, 2022) (beginning at 4:58), [<https://web.archive.org/web/20220323170144/https://www.youtube.com/watch?v=jtDxi9f3QsQ>].
- 154 Ellis, *supra* note 150.
- 155 Res. 21-27A, Paso Robles Joint Unified Sch. Dist., 1 (adopted Aug. 12, 2021), [<https://perma.cc/CH2X-XSPP>].
- 156 *Id.* at 2–3.
- 157 *Id.* at 2.
- 158 *Id.* at 3. And see Mackenzie Shuman, *Paso Robles School Board Bans Aspects of Critical Race Theory in Classrooms*, SAN LUIS OBISPO TRIBUNE (Aug. 11, 2021), [<https://web.archive.org/web/20210901190809/sanluisobispo.com/news/local/education/article253408025.html>] (noting that “[t]he resolution directly contradicts [existing] school district policy, which allows controversial issues to be taught so long as ‘all sides of the issue are given a proper hearing’”).
- 159 Res. No. 2022-23/21, Temecula Valley Unified Sch. Dist., 1 (adopted Dec. 13, 2022), [perma.cc/F4FZ-W6CK].
- 160 *Id.* at 1, 2.
- 161 *Id.* at 1.
- 162 *Id.* at 2–3.
- 163 The City of Ramona is more conservative than San Diego County as a whole; in the 2020 election, Trump received 59% of all Ramona votes (compared to Biden’s 38.8%). See Cristina Byvik; Michelle Gilchrist; Morgan Cook; David Garrick; Charles T. Clark, *How San Diego County Voted*, SAN DIEGO UNION-TRIBUNE (Nov. 7, 2020), [<https://perma.cc/AD5J-CQWA>] By comparison, as Table 13 shows, in San Diego County at large Trump received 62% of the votes Biden did.
- 164 Bd. Policy 6142.3, Ramona Unified Sch. Dist. (adopted Aug. 12, 2021), [<https://perma.cc/6K7Q-WNZZ>].
- 165 *Id.* at 3.
- 166 *Id.*
- 167 Kristen Taketa, *Ramona School Board Bans the Teaching of Race Theories*, RAMONA SENTINEL (Aug. 29, 2021), [<https://perma.cc/FX39-WW4C>] (describing the District’s combined efforts to enact BP 6142.3 and revise another policy titled “Controversial Issues”).
- 168 Hosam Elattar, *Newport-Mesa School District Officials Renew Amended ADL Anti-Bias Training Contract*, VOICE OF OC (Aug. 19, 2021), [<https://perma.cc/4XVD-SJ9T>].
- 169 *Id.* The partnership between the district and ADL was formed in the aftermath of a “red cup swastika party” hosted by Newport-Mesa students in 2019. As part of the plan to address the issues, the anti-bias education trainings were implemented.
- 170 Peter Levi, *Opinion: Anti-Bias Education is Not Political*, L.A. TIMES (Aug. 6, 2021), [<https://perma.cc/KKG9-9ZR4>] (op-ed by the ADL Regional Director, quoting the flyer). During the public comment period, several individuals “urged trustees to deny the contract.” Sara Cardine, *Newport-Mesa Unified Officials Hold Off on Anti-Bias Training as Some Decry Critical Race Theory*, L.A. TIMES (July 20, 2021), [<https://perma.cc/UB75-5YRE>] (quoting one commenter, “Are we seeing extremely violent hate crimes occur on campus? Or is this the result of a very small group of people on your task force [] pushing critical race theory in our schools? . . . I was assured critical race theory was not in our schools, but here it comes.”)
- 171 Hosam Elattar, *Newport-Mesa School District Officials Halt Anti-Bias Training in Schools*, VOICE OF OC (July 31, 2021), [<https://perma.cc/37V3-6A2J>] (quoting Levi, “If you go back and watch what was said, it appears that the email, the flyer and the speakers have no understanding of actually the content and purpose of ADL’s programming.”).
- 172 Sara Cardine, *Newport-Mesa OKs Modified Contract With Anti-Defamation League for Training on Bias*, L.A. TIMES (Aug. 18, 2021), [<https://perma.cc/9MCK-QYDN>] (noting that “[i]nformation provided by ADL . . . indicates advanced courses dive deeper into ‘the dynamics of power, privilege and perspective and how they inform and impact the creation and understanding of stereotypes and bullying.’ Participants examine privilege within systems of oppression, learn to effectively respond to incidents at school and ‘begin to move forward as change agents’”).
- 173 See “We’re Going to Stop the Transgender Contagion. Tiffany Justice with Sebastian Gorka One on One,” AMERICA FIRST WITH SEBASTIAN GORKA (Mar. 31, 2022), [<https://perma.cc/9J7R-URP9>] [hereinafter “AMERICA FIRST podcast”].
- 174 Gary Fineout, *DeSantis Shares Stage with Activist Who Posted QAnon-Related Conspiracy Theories on Social Media*, POLITICO (Dec. 17, 2021), [<https://perma.cc/T8CP-8E6V>] (noting that “[d]uring the press conference, Jimenez described last year’s demonstrations after George Floyd’s killing as ‘race wars’ and railed against critical race theory teachings”). “You’re wonderful. That was so good,” DeSantis told Jimenez from the podium following her remarks. *Id.*
- 175 *Id.* Responding to questions over Jimenez’s posts, DeSantis spokesperson Christina Pushaw defended her “[F]irst Amendment rights” to say what she wants: “It’s not on us to look into their private social media account and police what they say. . . . We want people on stage that [are in] line with our message.” *Id.*
- 176 AMERICA FIRST podcast, *supra* note 173 (language from the episode description).
- 177 Caroline Downey, *Moms for Liberty Locked Out of Twitter After Criticizing California Gender-Transition Bill*, NAT’L REV. (July 25, 2022), [<https://perma.cc/YEL2-YXSP>] (discussing the resultant Twitter suspension due to the post’s violation of the site’s rule against “hateful conduct”). Justice’s now-deleted post concerned California’s new S.B. 107, a piece of “trans refuge” legislation introduced in the State Senate by Sen. Scott Wiener and intended to provide refuge for trans children (and families) whose home states have criminalized their receipt of gender-affirming care. The Bill, later passed and then signed into law by Gov. Gavin Newsom on September 30, 2022, “limits California courts from enforcing subpoenas issued by out-of-state courts and protects information about gender-affirming care provided in California.” Adam Beam, *New Law Aims to Make California Haven for Transgender Youth*, NBC BAY AREA (Sept. 30, 2022), [<https://perma.cc/CN55-3BED>].
- 178 AMERICA FIRST podcast, *supra* note 173, at 03:27.
- 179 *Id.* at 14:20.
- 180 *Id.* at 17:47. And see directly below at *infra* note 181 for additional discussion about how “furries” have been falsely, repeatedly equated with transgender individuals more generally to delegitimize — and ridicule — the LGBTQ+ population.
- 181 One manufactured piece of disinformation which has become widely-circulated and intertwined with the debate over gender ideology in public education is the notion that schools are installing “litterboxes” in restrooms for children “who identify as cats” to use to go to the bathroom. See, e.g., Libby Stanford, *Litter Boxes in Schools: How a Disruptive and Demeaning Hoax Frustrated School Leaders*, EDUC. WEEK (Nov. 29, 2022), [<https://perma.cc/DTN3-26TT>] (noting that “[a]ll of the claims have been debunked, often by school leaders themselves” forced to respond to accusations from angry community members). These rumors of schools catering to so-called furries — “a subculture of people who are interested in anthropomorphic animal characters and often dressed up as them” and who are “not directly connected” to either the heterosexual or LGBTQ+ communities — have been spread by misinformed parents, radio hosts, and even elected officials like U.S. House Rep. Lauren Boebert (R-Colo.) and Nebraska state Sen.

- Bruce Bostelman (R). *Id.* One school superintendent from Grand Forks, North Dakota “found the hoax in his school community to be ‘purposefully deceitful’ and part of an overarching political agenda to sow distrust in public schools . . . [in order] ‘to dismantle public education as we know it.’” *Id.*
- 182 *Field Report with Paola Ramos*: “Exploring the Rightward Shift of Latinx Voters[.]” MSNBC television broadcast (Aug. 7, 2022), [archive.org/details/MSNBCW_20220808_030000_Field_Report_With_Paola_Ramos/start/660/end/720/].
- 183 See Paton Moody, Blog: *Don’t Say Gay (or Race) Bills*, CRT FORWARD TRACKING PROJECT (Aug. 3, 2022), [<https://perma.cc/DS2P-UKDN>].
- 184 2022 H.B. 1557, 124th Legis. Reg. Sess., 1 (Fla. Mar. 28, 2022), [<https://perma.cc/67J8-9HWD>].
- 185 Shawna Chen, *DeSantis Signs “Don’t Say Gay” Bill Into Law*, AXIOS (Mar. 28, 2022), [<https://perma.cc/QSL9-NS6W>] (quoting DeSantis’s signing speech). “We will make sure parents can send their kids to school to get an education, not an indoctrination,” DeSantis stated, accusing the Bill’s critics of “sexualizing kids in kindergarten . . . injecting woke gender ideology into second grade classrooms . . . enabling schools to transition students to a different gender without the knowledge of the parent, much less without the parents’ consent.” *Id.* (internal quotation marks removed).
- 186 2021–22 S.B. 8, 87th Legis. Reg. Sess., 1, 6 (Tex. May 13, 2021), [<https://perma.cc/2RBA-9J3K>].
- 187 Moody, *supra* note 183.
- 188 2021–22 H.B. 616, 134th Gen. Assemb., 1 (Ohio) (as introduced Apr. 4, 2022), [<https://perma.cc/23DW-RRNH>]. H.B. 616 demonstrates how lawmakers can insert race provisions into new anti-LGBTQ+ bills: Ohio’s law also bans instruction and curriculum, teacher training, or classroom materials regarding “divisive or inherently racist concepts,” defined to include CRT, “intersectional theory,” the 1619 Project, and diversity, equity and inclusion (DEI) learning programs. *Id.* at 6. And just like *Don’t Say Gay*, H.B. 616 also include strong enforcement mechanisms, empowering parents to bring suit against districts and individual teachers and administrators. Moreover, if a teacher is found to have violated the bill, H.B. 616 calls on and empowers the state Department of Education to pursue actions including official licensure admonishment, licensure suspension, or licensure revocation, “based on the severity of the offense.” *Id.* at 4.
- 189 See, e.g., Bailey Gallion, *Brevard Teacher’s ‘Banned Book’ Drive Raises Over \$5,000, Angers Moms for Liberty*, FLA. TODAY (May 31, 2022), (“Moms for Liberty has often refuted the statement that its members favor “banning books . . .”), [<https://perma.cc/T5TF-7TKD>]; Julie Page, Op-Ed: *You’ve Got Us All Wrong. Moms for Liberty Isn’t About Banning Books.*, NEWS & OBSERVER [Raleigh, N.C.] (Dec. 28, 2022), [<https://web.archive.org/web/20230217195053/https://www.newsobserver.com/opinion/article270200227.html>] (“Saying that Moms for Liberty is ‘banning books’ is a false narrative created by woke extremists to garner attention.”).
- 190 See, e.g., Jennifer Delacruz, *2022 in the Classroom: a Look Back on Book Bans, Culture Wars, and the Fight Over Parental Rights*, WFTS TAMPA BAY ABC ACTION NEWS (Dec. 22, 2022), [<https://perma.cc/RP57-V8ZT>] (discussing a report produced by “PEN America, a non-profit tracking book censorship,” which found that “between 500 and 750 books were banned in Florida schools from July 2021 through June 2022,” with the “subjects most frequently covered in those books involv[ing] the LGBTQ+ community and people of color”). See Jonathan Friedman; Nadine Farid Johnson, *Banned in the USA: the Growing Movement to Censor Books in Schools*, PEN AMERICA (Sept. 19, 2022), [<https://perma.cc/3XTT-93M3>].
- 191 Jay O’Brien, *Inside Moms for Liberty: the Conservative Parents Group Hopes to Tip the Scales in 2022*, WPEC CBS12 NEWS (Feb. 7, 2022), [<https://perma.cc/ZKU5-F9LD>] (discussing the contents of a “list of books submitted by the Moms for Liberty chapter in Indian River County, FL, “many of which” have already been “pulled from library shelves pending review” by district officials).
- 192 Rogers; Kahne; et al., *supra* note 6, at 2.
- 193 *Id.* at 19
- 194 *Id.*
- 195 Judd Legum, “Moms for Liberty” Says Book About MLK Violates New Law Banning CRT in Tennessee, POPULAR INFO. (Dec. 1, 2021), [<https://perma.cc/ZXQ9-K8WJ>].
- 196 Jeffrey Sachs; Jonathan Friedman, *Educational Gag Orders Target Speech About LGBTQ+ Identities with New Prohibitions and Punishments*, PEN AMERICA (Feb. 15, 2022), [<https://perma.cc/G8NX-TN7S>]. And see Elizabeth A. Harris; Alexandra Alter, *A Fast-Growing Network of Conservative Groups is Fueling a Surge in Book Bans*, N.Y. TIMES (Dec. 12, 2022), [<https://perma.cc/CT77-VYGP>] (“In its 2021 ‘Porn in Schools Report,’ Florida Citizens Alliance lists books that they say contain ‘indecent and offensive material’ — including *And Tango Makes Three*, about two male penguins who adopt a baby penguin.”).
- 197 AMERICA FIRST podcast, *supra* note 173, at 33:06.
- 198 David Artavia, ‘I Am Jazz’ Co-Author Speaks Out on Book Being Banned in the Wake of Florida’s ‘Don’t Say Gay’ Bill, YAHOO! LIFE (Apr. 13, 2022), [<https://perma.cc/X5LM-ZDX5>] (writing that “[e]ven before the bill became law in Florida, wars against books have long been waged against books thought to be fueled by radical misconceptions about sociopolitical issues like critical race theory and LGBTQ rights”).
- 199 Lois K. Solomon, *Florida School District Pulls 2 Books About Transgender Kids, Including ‘I Am Jazz,’* SOUTH FLORIDA SUN SENTINEL (Apr. 7, 2022), [<https://perma.cc/56Y5-MNLG>].
- 200 Artavia, *supra* note 198198.
- 201 Ariana Figueroa, *An ‘Unprecedented Flood’ of Book Bans Engulfs U.S. School Districts*, PEN REPORT SAYS, N.J. MONITOR (Sept. 20, 2022), [<https://perma.cc/QKG6-T9AH>] (noting that “[i]n 2015, Pérez wrote *Out of Darkness*, a young adult romance about a Mexican American girl and an African American boy set in the 1930s” which was banned from schools in 2021).
- 202 Matt Lavietes, ‘Groomer,’ ‘Pro-Pedophile’: *Old Tropes Find New Life in Anti-LGBTQ Movement*, NBC NEWS (Apr. 12, 2022), [<https://perma.cc/BQ3P-AK2L>].
- 203 *Id.*
- 204 See, e.g., Patricia Mazzei; Anemona Harocollis, *Florida Rejects A.P. African American Studies Class*, N.Y. TIMES (Jan. 19, 2023), [<https://perma.cc/RU4H-H26R>]. This article states that FDOE’s initial letter “did not cite which law the course violated or what in the curriculum was objectionable.” *Id.* However, in a correspondence with the College Board dated February 7, 2023, FDOE states that at multiple times in the previous year, including as late as December 7, 2022, “FDOE staff again, reminded College Board that House Bill 7 was important to review and reminded them that the State Board of Education rule for Required Instruction must also be adhered to.” See *infra* note 206 for this letter.
- 205 Anemona Hartocollis; Elzia Fawcett, *The College Board Strips Down Its A.P. Curriculum for African American Studies*, N.Y. TIMES (Feb. 1, 2023), [<https://perma.cc/BXE3-LNXF>].
- 206 Letter from Office of Articulation, Florida Department of Education, to Brian Barnes, Senior Director, College Board (Feb. 7, 2023), [<https://perma.cc/Z5UE-96DM>]. See also Dana Goldstein; Stephanie Saul; Anemona Hartocollis, *Florida Officials Had Repeated Contact with College Board Over African American Studies Curriculum*, N.Y. TIMES (Feb. 9, 2023), [<https://perma.cc/49YD-V4Y2>].
- 207 Pernell v. Fla. Bd. of Governors of State Univ. Sys., Pernell v. Fla. Bd. of Governors of State Univ. Sys., No. 4:22CV304-MW/MAF, 2022 WL 16985720, at *2 (N.D. Fla. Nov. 17, 2022).
- 208 Martin Luther King, Jr., *Letter from a Birmingham Jail* (Apr. 16, 1963), [<https://perma.cc/2ABK-QAKX>] (hosted online by the University of Pennsylvania’s African Studies Center).
- 209 Complaint at 1, Nat’l Urban League, et al. v. Donald J. Trump, et al. (D.D.C. Oct. 29, 2020) (Case No. 1:20-cv-03121), [<https://perma.cc/5RMU-6FCT>].
- 210 *Coalition Letter on Executive Order 13950*, U.S. CHAMBER OF COM. (Oct. 15, 2020), [<https://perma.cc/6PC4-CZWT>].
- 211 *Welcome to the #TruthBeTold Campaign*, AFRICAN AM. POLICY FORUM (last visited Jan. 15, 2022), [<https://perma.cc/Z5TD-43SA>].
- 212 Julia Chaffers, *Amid Push against Critical Race Theory, States Must Do More to Create Inclusive Classrooms*, NEXT 100 (Oct. 7, 2021), [<https://perma.cc/H6UB-S7N6>] (describing “Culturally Responsive Education” as “a pedagogical perspective premised on the idea that schools should be attentive to their students’ diversity”).
- 213 *Id.* (noting that CRE may “actively counter the ways these new laws privilege the feelings of white children at the expense of students of color” in, e.g., divisive concepts bans which seek to “insulate them from ‘discomfort’ or ‘guilt’ about the histories they may be taught”). “As critics of CRT highlight the theory’s supposed anti-white bias, it is important to preempt such attacks on CRE. In a sense, we already have CRE in our schools — it’s just that it’s responsive only to white students’ cultures.” *Id.*
- 214 Brown v. Bd. of Ed., 347 U.S. 483, 493 (1954).
- 215 Keyishian v. Bd. of Regents, 385 U.S. 589, 603 (1967) (quoting Sweezy v. State of N.H. by Wyman, 354 U.S. 234, 250 (1957)).
- 216 *Id.* at 603 (noting that academic freedom “is therefore a special concern of the First Amendment”).

CRT Forward

