

WHAT YOU SHOULD KNOW ABOUT STATE MEASURES RESTRICTING CERTAIN INSTRUCTION ON RACISM AND SEXISM

Ten states have adopted measures — either state laws (AZ, IA, ID, NH, OK, SC, TN, and TX) or state Board of Education rules (FL & UT) — that seek to limit how topics like racism and sexism can be taught in K-12 schools. At least three of these measures (OK, IA, NH) also restrict instruction at the higher education level and/or restrict diversity and inclusion training for public employees including educators.

How Do These Laws Work?

The laws differ in scope but at their most extreme prohibit teaching that the United States is fundamentally, institutionally or systematically racist or sexist (IA, TN, TX), that individuals may be consciously or unconsciously biased (IA, OK, TN, TX), that the advent of slavery constituted the true founding of the United States or was anything but a deviation from the authentic founding principles of the United States (FL, TX), or that students understand *The 1619 Project* (FL, TX).

You should know though that none of these laws prohibit teaching the full sweep of U.S. history, including teaching about the almost two hundred and fifty years of slavery that came to an end only as a result of the Civil War, or Reconstruction, or the rise again of violent white supremacy that brought Reconstruction to an end and has persisted in one form or another ever since. In fact, current state standards governing the teaching of history in many of the impacted states require such instruction.

- For example, the [Tennessee Social Studies Standards provide that](#) students should be able to describe, analyze, or assess racial dynamics, including the role of slavery where applicable, during major periods of American History, including colonial times and the Revolutionary War, the abolition movement and the Civil War, Reconstruction, World War I, the Great Migration, the Harlem Renaissance, World War II, the Civil Rights Movement, and modern politics.
- Similarly, the [Oklahoma Academic Standards for Social Studies](#) provide that students should be able to describe, analyze, or assess racial dynamics, including the role of slavery where applicable, during major periods of American History, including colonial times and the Revolutionary War, the abolition movement and the Civil War, Reconstruction, the Industrial Revolution, the period between the two World Wars, and the Civil Rights Movement. Students also examine the role of cultural identities in American society, learn about the institution of slavery in world history, learn about bias, discrimination and stereotypes in psychology, and learn about race in the context of Oklahoma state history, including the Tulsa Race Massacre.

Other states have similar, albeit occasionally less detailed, standards in place.

Because those standards remain in place, and because many of the laws are limited in scope, NEA and its affiliates have been working to secure guidance that makes clear exactly what instruction is still permitted. Some helpful guidance has already been released. For example, new [guidance](#) in Iowa clarifies that candid discussions of racial oppression do not violate the state’s prohibition against teaching that “an individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of their race or sex” simply because such discussions are emotional and may make students uncomfortable. As the Iowa guidance explains, “the emotions of ‘discomfort, guilt, [or] anguish’ may be rational responses to discussions of oppression,” and that the law does not ban emotional discussions. [New Hampshire has issued similar guidance](#) specifying that the fact that a “lesson may make students, faculty or parents uncomfortable does not mean” the law has been violated. Because similar provisions are contained in a number of the new laws (including AZ, IA, OK, TN, TX, SC), these clarifications from IA and NH may be useful in those other states as well.

Both Iowa and New Hampshire also have clarified that the laws do not ban teaching about historical truths or discrimination. Iowa, for example, states that the law shall not be construed to “prohibit discussing specific defined concepts as part of a larger course of academic instruction” or to “prohibit the use of curriculum that teaches the topics of sexism, slavery, racial oppression, racial segregation, or racial discrimination.” New Hampshire has further clarified that “Nothing [in the law] prohibits the teaching of historical subjects including, but not limited to: slavery, treatment of the Native American population, Jim Crow laws, segregation, treatment of women, treatment of LGBTQ+ people, treatment of people with disabilities, treatment of people based on their religion, or the Civil Rights movement. Nor does anything prohibit discussions related to current events including, but not limited to: the Black Lives Matter movement, efforts to promote equality and inclusion, or other contemporary events that impact certain identified groups.”

Why Are These Laws Being Passed Now and How Should Educators Respond to Them?

These measures are a cynical attempt to undermine faith in public education and our nation’s educators. They draw from an old playbook of well-funded and coordinated dog-whistle attacks designed to distract us from the failures of some elected leaders to ensure our public schools have the resources they need so all of our students can thrive.

Remember your central responsibility to students remains unchanged by these laws. While you are working with students in your classroom, your state standards and approved curriculum approaches govern and you should continue to follow them. It is educators who will know how to best design age-appropriate lessons for students that will help them understand the past and prepare for the future.

If you are an educator in a state with one of these measures:

Be sure to check with your local union and state affiliate about exactly what the measure in your state says and how it will be applied. The laws differ and some have specific safe harbor provisions that explain what type of instruction is permitted. Don’t assume that the way you teach will have to change – in fact, given the narrow terms of the laws, you should assume unless your local or state affiliate advises otherwise that the laws do not prohibit age-appropriate

instruction aligned to established state standards governing how to teach history, civics instruction, and government classes.

If you are advised that the measure in your state prohibits instructing students honestly, and you decide to continue to provide that instruction and are disciplined for doing so:

Your local and state affiliate can defend you through the NEA UniServ and Unified Legal Services Program. NEA is strongly committed to ensuring that teachers who teach the truth, and do so with the support of their state and local affiliates, are defended in any and all such matters. The outcome of any particular case will depend on its circumstances including exactly what was taught, whether it actually violated the law, whether that law has been enforced fairly, tenure status and employment record, and the penalty sought. You should understand that your speech at work as a K-12 educator is not protected by the First Amendment—although, tenure or other similar protections under a collective bargaining agreement may protect you from arbitrary and unfair discipline. (If you are a professor you may have both First Amendment protections and collectively bargained protections for the instructional choices you make in your classes.)

Outside of your classroom there are more effective and protected ways to make sure that your voice is heard:

Remember that your speech and activism is most protected when you are speaking up as a citizen on a matter of public concern. That means that your speech is protected by the First Amendment when you are speaking up off work time and to your community or the general public about the importance of teaching certain concepts or in a certain manner (e.g., teaching by way of inquiry in order to engage students and prompt critical thinking). Writing a letter to the editor, attending a rally off work time, posting on Facebook or tweeting about a public event or action, or speaking to the school board as a citizen about the importance of teaching these concepts are all examples of protected speech and activism. Reach out to your local union to find out what the union is doing to counter or protest these measures if they are under consideration or have been adopted in your school district or state. Organize with local parents and students to raise awareness of and counter these measures. And register individuals to vote to make sure their voices are heard too when such measures are being considered.

Some educators and their allies are pushing for educators to pledge to engage in civil disobedience in response to these laws. What do you need to know about these efforts?

Always remember that educators, particularly at the K-12 level, are held to higher standards that may make them vulnerable to discipline or firing even for off-duty activity. Pledging to or actually violating a law related to your work is a serious decision that could expose you to adverse employment actions. You should always discuss those risks with your local and state affiliate before signing such a pledge or agreeing to such an action so that you can make an informed decision about how to proceed.