



Stop Critical Race Theory and Racial Discrimination in Public Schools Act

This model legislation includes 3 components, which can be adopted together or individually, as well as a declaration of purpose.

- *I. Affirmative Action / Racial Discrimination Ban (page 1)*
- *II. Prohibiting the Use of Diversity Statements as Political Tests in the Hiring of Public Employees (page 2)*
- *III. Prohibiting Taxpayer Funded Indoctrination in Critical Race Theory (page 3)*
- *IV. Declaration of Purpose (page 3)*

Part I. Affirmative Action / Racial Discrimination Ban

Several states already restrict public institutions from granting preferential treatment to applicants, employees, or students on account of their race or sex, having adopted model language pioneered by the American Civil Rights Institute.

However, even in states with such protections, proponents of “critical race theory” (CRT) and “diversity, equity, and inclusion” (DEI) are able to circumvent these safeguards by exploiting the exemptions that typically exist for federal contractors, which include many universities and institutions of public education.

This model language implements the original aspirations of these state laws by more effectively restricting public institutions from practicing racial discrimination.

- *For states that already prohibit affirmative action in either their statutes or state constitutions: The **BLUE** language below provides the necessary amendment language to strengthen the existing state ban.*
- *For states without pre-existing prohibitions against affirmative action, the language below combines the pre-existing model of the American Civil Rights Institute (black) with the necessary additions (**BLUE**).*

Section X: Prohibiting Racial Discrimination in Public Educational and Other Institutions

A. This state shall not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin in the operation of public employment, public education or public contracting.

B. This section does not:

1. Prohibit bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education or public contracting.

2. Prohibit action that must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal monies to this state, **SUBJECT TO THE FOLLOWING:**

(a) **ANY ACTIONS THAT WOULD OTHERWISE BE PROHIBITED, INCLUDING IMPLEMENTING AFFIRMATIVE ACTION POLICIES, AND THAT ARE TAKEN IN ACCORDANCE WITH FEDERAL REQUIREMENTS PURSUANT TO THIS PARAGRAPH SHALL BE LIMITED TO OUTREACH, ADVERTISING OR COMMUNICATION EFFORTS.**

(b) **THIS STATE MAY NOT UNDER ANY CIRCUMSTANCE DISADVANTAGE OR TREAT DIFFERENTLY ON THE BASIS OF RACE OR ETHNICITY ANY INDIVIDUAL FROM AMONG ANY POOL OF APPLICANTS, STUDENTS, EMPLOYEES OR CONTRACT RECIPIENTS WHEN MAKING A HIRING, CONTRACTING, PROMOTION OR ADMISSION DECISION.**

(c) **A PUBLIC EDUCATIONAL INSTITUTION MAY NOT IMPLEMENT ANY DISCIPLINARY POLICY OR DISCIPLINARY ACTION THAT TREATS AN INDIVIDUAL STUDENT OR GROUP OF STUDENTS DIFFERENTLY ON ACCOUNT OF RACE OR ETHNICITY.**

(d) ACCESS TO SERVICES, FACILITIES OR GROUNDS OF ANY PUBLIC EDUCATIONAL INSTITUTION IN THIS STATE MAY NOT BE CONDITIONED ON THE RACE OR ETHNICITY OF ANY INDIVIDUAL OR GROUP OF INDIVIDUALS.

(e) TO UPHOLD THE CONSTITUTION OF THE UNITED STATES AS THE SUPREME LAW OF THE LAND, THIS STATE DEEMS ANY REQUIREMENT THAT THIS STATE PRACTICE RACIAL DISCRIMINATION OTHER THAN THOSE PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH TO BE INCONSISTENT WITH THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES.

3. Invalidate any court order or consent decree that is in force as of the effective date of this section.

C. The remedies available for a violation of this section are the same, regardless of the injured party's race, sex, color, ethnicity or national origin, as are otherwise available for a violation of the existing antidiscrimination laws of this state.

D. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY WILFUL VIOLATION OF THIS SECTION.

E. This section OR ANY AMENDMENT TO THIS SECTION applies only to actions that are taken after the effective date of this section OR THE RESPECTIVE AMENDMENT TO THIS SECTION.

F. This section is self-executing.

G. For the purposes of this section, "state" includes this state, a city, town or county, a public university, a community college, a school district, or any other political subdivision in this state.

Part II. Prohibiting the Use of Diversity Statements as Political Tests in the Hiring of Public Employees

Several states already prohibit public educational institutions from subjecting students or staff to political tests when they apply for admission or employment.

As scholars have noted, however, statements of "diversity, equity, and inclusion" (DEI), or their functional equivalents, increasingly serve as de facto political litmus tests and loyalty oaths used to screen out applicants who are insufficiently committed to a progressive, racialized ideology.

This model language clarifies that such requirements are treated as prohibited political tests. The language can be adopted as a standalone provision or integrated with any pre-existing state restrictions on political tests and qualifications on admission or employment in public institutions.

Section X: Political Tests in Public Education Prohibited

A. No political test or qualification shall ever be required as a condition of admission into, or promotion within, any public educational institution of the state, as teacher, employee, or student.

B. For the purposes of this section, "political test":

1. Includes:

(a) Compelling or soliciting an applicant, teacher, employee, student, or pupil to identify a commitment to or make a statement of personal belief in support of any ideology or movement that promotes the differential treatment of any individual or groups of individuals based on race or ethnicity, including either of the following:

(i) Any initiative or formulation of diversity, equity and inclusion beyond upholding the equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution.

(ii) Any theory or practice that holds that systems or institutions upholding the equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution are racist, oppressive or otherwise unjust.

(b) Giving preferable consideration to an applicant, teacher, employee, or student for opinions expressed or actions taken in support of another individual or a group of individuals, in which the institution's consideration is based on the race or ethnicity of those other individuals.

2. Does not include fidelity to, or an oath or effort taken to uphold, the Constitution of [State] or the Constitution of the United States.

C. The legislature shall prescribe a penalty for any willful violation of this section.

Part III. Stopping Taxpayer Funded Indoctrination in Critical Race Theory

Several states have enacted prohibitions against using state institutions to indoctrinate students, teachers, or staff via instruction or training in “critical race theory” and related ideologies advocating for racial discrimination. Based on the [Partisanship Out of Civics Act](#), created by Ethics and Public Policy Center Fellow Stanley Kurtz and published and endorsed by the National Association of Scholars, this model language prohibits state employees acting in the course of their official duties from promoting the core tenets of critical race theory in public education.

Section X: Prohibiting State-Sponsored Racial Discrimination in Public Instruction and Training

A. An employee or governing board or governing body member of a public institution of elementary or secondary education, public university or community college in this state may not compel or require any employee or student to adopt, affirm, endorse, adhere to or profess ideas contrary to Title VI of the Civil Rights Act of 1964 and [state prohibition on racial discrimination by public institutions], nor compel them to participate in trainings or orientations promoting such ideas, including any of the following:

1. That one race or ethnic group is inherently morally or intellectually superior to another race or ethnic group.

2. That an individual, by virtue of the individual's race or ethnicity, is inherently racist or oppressive, whether consciously or unconsciously.

3. That an individual should be invidiously discriminated against, or receive adverse treatment solely or partly because of, the individual's race or ethnicity.

4. That an individual's moral character is determined by the individual's race or ethnicity.

5. That an individual, by virtue of the individual's race or ethnicity, is subject to blame or judgment or bears responsibility for actions committed by other members of the same race or ethnic group.

6. That an individual should feel discomfort, guilt, anguish or any other form of psychological distress because of the individual's race or ethnicity.

7. That academic achievement, meritocracy or traits such as a hard work ethic, rational thinking, objectivity or literacy are features of racism or oppression.

B. An employee of a public institution of elementary or secondary education acting in the course of the employee's official duties may not use the employee's position of authority over students or other employees to promote or endorse the tenets listed in subsection a of this section, including by using public resources or facilities or contracting for any instruction or training to promote or endorse the tenets. This subsection does not prevent a teacher from identifying and discussing historical movements, ideologies or instances of racial hatred or discrimination, including but not limited to slavery, Indian removal, the Holocaust or Japanese-American internment.

C. Except where included as part of a for-credit postsecondary course taught by a university or community college faculty member, an employee of a public university or community college acting in the course of the employee's official duties may not use the employee's position of authority over students or other employees to promote or endorse the tenets listed in subsection a of this section, including by using public resources or facilities or contracting for any instruction or training to promote or endorse the tenets.

D. An attorney acting on behalf of a public institution of elementary or secondary education, a public university or a community college may request a legal opinion of the county attorney for the county in which the public institution of elementary or secondary education, public university or community college resides or attorney general as to whether a proposed use of state resources would violate this section.

E. The legislature shall prescribe a penalty for any willful violation of this section.

IV. Declaration of Purpose

Section X: Purpose

The people of this state find and declare the following:

1. Racially discriminatory ideologies and practices such as "critical race theory" directly contradict the principles of the 14th Amendment of the United States Constitution, the Civil Rights Act of 1964 and the Constitution of [State] by inflaming divisions on the basis of race and ethnicity.

2. By advocating for differential treatment of individuals on the basis of race and ethnicity, promoting the assumption that reverse racism is necessary or advancing the idea that an individual should be first and foremost reduced to one's demographic identity, the aforementioned ideologies and practices deny the constitutional guarantee of equal protection of the law and the promise of the Declaration of Independence holding that all are created equal.

3. The ordinary meaning of terms such as "anti-racist" and "diversity, equity and inclusion" have been supplanted and distorted by proponents of an ideology that actively groups, segregates, discriminates or otherwise advocates for differential treatment among individuals based on racial and ethnic characteristics.

4. It is unacceptable for state-run, taxpayer-supported institutions to teach or implement racially discriminatory ideologies or practices or to require students or employees to endorse racial discrimination or participate in activities promoting it.