

**THE “ED SCARE”:  
CURRICULUM, CONTROVERSY, AND DIVISIVE CONCEPTS IN PUBLIC  
EDUCATION IN THE 2020s**

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My thesis is dedicated to every educator from whom I have had the privilege to learn. I remember each and every one of you.

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Abstract: This paper examines the phenomenon known as the “Ed Scare,” a term encapsulating conservative attacks on various facets of public education in the United States. The analysis is divided into four key sections, each addressing distinct limitations imposed on education: 1) constraints on the teaching of African American History, 2) restrictions on LGBTQ+ topics, 3) book banning, and 4) the prohibition of “divisive concepts” in higher education. The study delves into the arguments and justifications employed by supporters of these conservative attacks, offering a comprehensive exploration of their motives. The paper emphasizes the broader significance of this phenomenon by exploring its profound implications on American politics and society. By scrutinizing conservative attempts to reshape the study of American history and culture, this study contributes to the ongoing discourse on education reform.

*Keywords:* education, African American history, curriculum, LGBTQ+, book banning, American Studies, divisive concepts, Critical Race Theory, Diversity, Equity, & Inclusion, secondary education, higher education.

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## Introduction

Over the last few years, public education has become a widely debated topic across the United States. Conservatives have become increasingly concerned with what they see as the indoctrination of “woke” or “leftist” ideologies in schools, and they have reacted in a number of different ways. In secondary education, these reactions include, but are not limited to, legislation that limits the teaching of African American History and LGBTQ+ topics, DEI, and enables conservatives to ban books. In higher education, these reactions include the overhaul of certain university policies, including banning the promotion or opposition of “divisive concepts.” All of these reactions can be understood as infringements on academic freedom. My paper is divided into four different sections that assess these different academic assaults by conservatives.

Poets, Essayists, and Novelists (PEN) America has dubbed these, and other related educational threats, the “Ed Scare.” They define the Ed Scare as a nationwide effort “to foment anger and anxiety about public education; to restrict or prohibit instruction about race, sexuality, and gender; and to ban books that address these topics. Taken as a whole, it is a multi-faceted campaign to chill the freedom to read, learn, and think in public education through legislation and intimidation.”<sup>1</sup> The coverage of the Ed Scare has begun to identify who is making attacks, where they have been most successful, where they have not, and the quantitative increase in the sheer number of attacks over the last few years. It is important to note that education reform is not new, and each of the aforementioned reactions have deep roots in American history. My thesis briefly identifies those historical aspects in each respective section. However, the main

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<sup>1</sup> PEN America, “What is the Ed Scare?”

focus of my paper is on the arguments and justifications made by conservatives who are proposing the attacks on education and contributing to the “Ed Scare.”

It is difficult to pinpoint the *exact* time when the debates around education were reignited, but one place to start is with the 1619 Project and its subsequent reactions. The 1619 Project is a long-form, ongoing journalistic initiative project developed by Nikole Hannah-Jones and other writers<sup>2</sup> from *The New York Times*. Its publication began in August 2019 on the 400th anniversary of the beginning of slavery in America. The goal of the project is “to reframe the country’s history by placing the consequences of slavery and the contributions of Black Americans at the very center of our national narrative.”<sup>3</sup> The Pulitzer Center created a set of curricular resources to assist the project. Resources include, but are not limited to lesson plans, units, resource guides, and activities that vary by grade level and class subject. Although the current controversies surrounding the education climate were not a response to the publication of this project alone, it certainly ignited them.

Two different presidents from two different political parties have engaged in these debates. A little over a year after the initial publication of the 1619 Project, on September 17, 2020, President Donald Trump announced the creation of “The President's Advisory 1776 Commission.” In the speech, Trump called out the need for “patriotic education” and announced the creation of a grant to develop a “pro-American curriculum.”<sup>4</sup> Trump strongly opposes certain ideas, which are central to this paper, and recognizes them as dangerous. He said “Critical race theory, the 1619 Project, and the crusade against American history is toxic propaganda, ideological poison that, if not removed, will dissolve the civic bonds that tie us together. It will

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<sup>2</sup> Nikole Hannah-Jones is often credited with the project, but other authors include Caitlin Roper, Ilena Silverman, Jake Silverstein (1619 Education Organization).

<sup>3</sup> *The New York Times*, “1619 Project.”

<sup>4</sup> Trump, “Remarks at the White House on American History.”

destroy our country.” Trump even called the “twisted web of lies” being taught in U.S. classrooms about systemic racism in America, “a form of child abuse.” He also predicted that “Patriotic moms and dads are going to demand that their children are no longer fed hateful lies about this country.”<sup>5</sup> Near the end of the speech, Trump stated that “Our youth will be taught to love America with all of their heart and all of their soul.”

Two days before the end of his term in January of 2021, The President's Advisory 1776 Commission published the “1776 Report.” The report, however, does not include citations or footnotes, and does not identify its main authors. In stark contrast with the principles of the 1619 Project, the opening pages of the 1776 report claim that the purpose is to “enable a rising generation to understand the history and principles of the founding of the United States in 1776.”<sup>6</sup> The Commission Report also acknowledges the controversy surrounding the teaching of American History, and eerily paints the division as serious enough to start a revolution or civil war. It notes “Today, however, Americans are deeply divided about the meaning of their country, its history, and how it should be governed. This division is severe enough to call to mind the disagreements between the colonists and King George, and those between the Confederate and Union forces in the Civil War.”<sup>7</sup> In general, the report suggests guidelines for teaching episodes of American History.

President Joe Biden terminated the 1776 Commission on his first day in office.<sup>8</sup> However, the project lives on through the form of a political action committee (PAC). The PAC’s website claims that, “A new and troubling trend has emerged in our nation’s public school system. School districts in all 50 states have adopted critical race theory and parts of “The

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<sup>5</sup> Wise, “Trump Announces 'Patriotic Education' Commission.”

<sup>6</sup> “1766 Report,” 1.

<sup>7</sup> “1766 Report,” 1.

<sup>8</sup> Binkley, “Biden Revokes Trump Report.”

1619 Project” as part of their curriculum.”<sup>9</sup> However, the PAC website does not provide any evidence to support that claim. The website also claims that “Critical race theory is a radical belief that pushes the idea that America is an inherently racist country and white Americans are stained with the original sin of racism for which they can never be cleansed. Their solution is to remake the U.S., abandoning our founding documents and the capitalist system.”<sup>10</sup> The words of the PAC demonstrate the exaggerated and inflated argument that many conservatives make about CRT, which is that everyone who is not actively opposed to it wants to abandon history and abolish the system in order to remake the United States.

Concurrent with this pushback against the 1619 Project, there has been an increase in organized “parental advocacy” groups such as No Left Turn in Education, founded in 2020, Parents Defending Education, founded in 2021, and Moms for Liberty, also founded in 2021, just to name a few. At the same time, and often spurred on by these groups, republican legislators have increasingly proposed legislative attacks on the teaching of African American History, and LGBTQ themes, and book banning in public education. These three topics will be the subjects of section one, two, and three, of my paper, respectively.

Why is this all happening now? In a 2021 webinar hosted by *The Brookings Institution*, experts discussed the politics of education. Lauren Camera, a senior education writer at *U.S. News and World Report*, noted that contemporary state of affairs in the US contributed to the increased tension surrounding education: “major pressure points that you are seeing in education right now already existed,” but the pandemic intensified those pressure points and brought attention to problems that had been well known to the education community. She described a

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<sup>9</sup> 1776 Project PAC, “Overturning Critical Race Theory and The 1619 Project.”

<sup>10</sup> 1776 Project PAC, “Overturning Critical Race Theory and The 1619 Project.”

confluence of stressors—remote learning, a decline in student learning outcomes, a highly charged political environment, a national reckoning with racism and inequality, and COVID-19 fatigue—as producing a “boiling-over moment.” Today, Americans find themselves on opposing sides of many issues in education, and the decentralized nature of education governance means that these debates are playing out in different ways all across the country.<sup>11</sup>

How are we organizing and understanding this conflict? In the past couple of years, the media have characterized the legislation, contemporary debates and controversy surrounding the teaching of African American history,<sup>12</sup> Critical Race Theory,<sup>13</sup> LGBTQ themes,<sup>14</sup> book banning,<sup>15</sup> and other “controversial” or “divisive” topics in education as part of the ongoing “culture wars.”<sup>16</sup> The culture war framing, however, has not been without criticism.<sup>17</sup> Rather than frame my study from the lens of the “culture wars,” I will be focusing on the justifications that conservative critics have been using to make these limiting efforts in education.

Groups such as PEN America have helped clarify the many facets of this reactionary movement. PEN has taken note of the increasing trend in educational gag orders, book bans, and

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<sup>11</sup> The Brookings Institution, “From COVID-19 to Culture Wars,” 6.

<sup>12</sup> Anderson, “Black Students are Caught.”

<sup>13</sup> Ansley, “The Culture Wars - They’re Back.”

<sup>14</sup> Douthat, “How to Make Sense of the New L.G.B.T.Q Culture War.”

<sup>15</sup> Baptiste, “Books are the Latest Casualty.”

<sup>16</sup> Natanson, et al. “An Explosion of Culture War Laws.”

<sup>17</sup> Although the term has been thrown around in the media recently, it is rooted in scholarship. The term “culture war” was introduced and popularized by social scholar James Davison Hunter in his 1991 book *Culture Wars: The Struggle To Define America*. He defines it as “political and social hostility rooted in different systems of moral understanding” (42). He argues that on an increasing number of “hot-button” defining issues—abortion, gun politics, separation of church and state, privacy, recreational drug use, homosexuality, censorship—there exists two definable polarities. Further, in chapter 4, Hunter argues that society is divided along the same lines on these issues; “two general public philosophies that have evolved on either side of the cultural divide” (108). These two groups are the progressive vision and the orthodox vision, with compounding morals. Irene Thomson, however, challenges the notion of the culture war, citing inconsistencies with the argument that there are two warring camps with clear, unified, and consistent ideological views on issues. Rather than the American public culture being divided into two opposing camps, she claims that both sides share the same American cultural ideas in propounding their different visions. She concludes that “American culture is not a matter of either/or but rather of both/and. There is thus no simple or unitary “culture war,” no “struggle for the soul of America” (30). Although the term culture war is often used in regard to the subject of this thesis, I will avoid doing so for the reasons Thomson states.

“transparency” bills that threaten free expression and academic freedom in the classroom. As PEN defines them, educational gag orders are “state legislative efforts to restrict teaching about topics such as race, gender, American history, and LGBTQ+ identities in K–12 and higher education.”<sup>18</sup> PEN America tracks these bills in their Index of Educational Gag Orders. In PEN America’s “Censored Classroom” report, researchers analyzed the landscape of educational gag orders as of August 2022, the point in the year wherein the vast majority of state legislatures had concluded. They found that proposed educational gag orders increased 250 percent in 2022 compared to 2021. 26 different states introduced 137 gag order bills in 2022, compared to 22 states introducing 54 bills in 2021.<sup>19</sup> The bills have become increasingly more punitive, and a growing number of them have been targeting LGBTQ themes.

The number of book bans are increasing as well. During the first half of the 2022 – 23 school year (July to December) PEN America’s Index of School Book Bans lists 1,477 instances of individual books banned, affecting 874 unique titles, an increase of 28 percent compared to the prior six months, January – June 2022. That is more instances of book banning than recorded in either the first or second half of the 2021– 22 school year. Over this six-month timeline, the total instances of book bans affected over 800 titles; this equates to over 100 titles removed from student access each month. The term “removed” includes both complete removals and books that were moved from one portion of the library to another. Overwhelmingly, book banners continue to target stories by and about people of color and LGBTQ+ individuals.<sup>20</sup> Another group, The American Library Association, documented 1,269 demands of book censorship in 2022. It was

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<sup>18</sup> PEN America, “Educational Gag Orders.”

<sup>19</sup> Young and Friedman, “America’s Censored Classrooms.”

<sup>20</sup> Meehan and Friedman, “Banned in the USA.”

the highest the organization had ever recorded since it began collecting censorship data more than 20 years prior.<sup>21</sup>

EveryLibrary, another non-profit organization, has been tracking state legislative initiatives in eight categories: efforts to limit access to school library databases, proposals to establish book rating systems, mandating or prescribing materials challenge policies, efforts to regulate collection development policies, use of parental control policies to limit free speech, changes to obscenity and harmful to minors definitions that preempt First Amendment guarantees, bills that limit or outlaw the teaching of “divisive concepts,” and bills that would criminalize libraries, schools, and museums by removing long-standing defense from prosecution exemptions under obscenity laws. In the year 2023 alone, EveryLibrary has already found 148 legislative efforts of concern.<sup>22</sup>

The above has made clear that the Ed Scare is legitimate, significant, and ongoing. However, the questions remain; How are these legislative attacks on education justified by their proponents? Who proposes them, and with what arguments do they propose them? Who is being targeted by these attacks? Where in American history have we seen this before, and why are we seeing a resurgence of this topic now? What are the potential effects of these legislative efforts on American Studies? In order to answer these questions and others, I will explain the arguments and justifications that supporters use to justify the attacks. I will also comment on what opponents of the attacks have said in response to these issues. I will provide an example of and analyze a piece of related legislation. Then at the end of each section of my paper, I will assess the legitimacy of the arguments on all sides. I will showcase the way in which this “Ed Scare” has significant impacts on American politics and society.

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<sup>21</sup> Garcia, “American Library Association Reports.”

<sup>22</sup> EveryLibrary, “Legislation of Concern in 2023.”

In my paper, I will analyze both K–12 and higher education. Considering the entirety of the public education system, from elementary to higher education (K–16) is essential to uncover the coordinated nature of these assaults. Public higher education, like K-12, is intertwined with public lower education levels as they share resources, policies, and ideological frameworks. Thus, examining both sectors provides a more comprehensive understanding of how these measures impact students, educators, and institutions at all levels.

Amidst the backdrop of what has been termed the “Ed Scare,” characterized by legislative assaults on academic freedom in public education, this thesis seeks to identify, document, and analyze the deliberate and coordinated nature of attacks across four distinct areas: restrictions on teaching African American History, limitations on LGBTQ+ topics, book banning, and the prohibition of 'divisive concepts.' By examining the justifications put forth by conservative proponents of these measures, as well as the responses from opposing voices, my study aims to illuminate the interconnectedness and intentional nature of these assaults. Through a comprehensive analysis of historical precedents and contemporary developments, my thesis argues that the “Ed Scare” represents a deliberate, coordinated, and intentional effort to control the narrative in public education.

### **Section 1: Limits on the Teaching of African American History**

*The New York Times*'s 1619 Project and the Trump Administration's 1776 Commission highlight a starting point of the recent controversy over African American History. The controversies lie not only in *how* African American history should be taught, or from which perspective, but whether it should even be taught at all. For example, the overstated goal on the website of the 1776 PAC is “overturning Critical Race Theory and the 1619 Project.” It does not get more explicit than that.

Critical Race Theory (CRT) is an interdisciplinary academic approach that analyzes race-related power structures in the United States. In the last few years, CRT has turned into a controversial topic and a driving force behind conservative attacks on education. However, the meaning of CRT, as well as the actual extent of its application and use have been lost in translation. The academic understanding of CRT vastly differs from popular understanding and representation in recent media.

In a 1998 article, “Critical Race Theory: Past, Present, and Future,” scholars Richard Delgado and Jean Stefancic trace the origins of CRT to the early writings of Derrick Albert Bell in the 1970s at Harvard Law School.<sup>23</sup> Bell’s work examined racial issues within the context of their economic and social, and political dimensions from a legal standpoint. Although Bell is considered the “pioneer” of Critical Race Theory, many other scholars and figures in history have contributed to the conversation.<sup>24</sup> Although it was initially a *legal* framework, in the 1990’s scholars such as Gloria Ladson-Billings and William F. Tate II applied CRT to education, describing the role of the social construction of white norms and interests in the field of education.<sup>25</sup>

Over time, right-wing activists made CRT synonymous with seemingly *any* discussions of race, diversity, equity, and inclusion in an educational setting. The conflation of one specific

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<sup>23</sup> Delgado and Stefancic, “Critical Race Theory: Past, Present, and Future,” 1.

<sup>24</sup> Critical Race Theory scholarship draws on the works of Antonio Gramsci, Sojourner Truth, Frederick Douglass, and W. E. B. DuBois. It is also informed by the 1960s and 1970s movements such as Black Power, Chicano, and Radical Feminism. Critical Race Theory shares many intellectual commitments with critical theory, critical legal studies, feminist jurisprudence, and postcolonial theory. Other scholars that have contributed to and developed Critical Race Theory include Kimberle Crenshaw, Richard Delgado, Mari Matsuda, Stephanie Phillips, Cheryl Harris, Gloria Ladson-Billings, Neil Gotanda, and countless others.

<sup>25</sup> In her 1995 article “But That’s Just Good Teaching! The Case For Culturally Relevant Pedagogy” Ladson-Billings advocated for culturally relevant pedagogy, which rests on three criteria or propositions: “(a) Students must experience academic success; (b) students must develop and/or maintain cultural competence; and (c) students must develop a critical consciousness through which they challenge the status quo of the current social order.” Critical Race Theory is *not* the same as culturally relevant teaching, but it’s related in that one of its aims is to help students identify and critique the causes of social inequality in their own lives.

term with other related, but not identical, discussions is a pattern that is seen throughout both the Ed Scare and the various sections of my paper. Barbera Sprunt, a political commentator, concisely summarized this phenomenon as it relates to CRT in an NPR Podcast in 2021,

In the late '70s, early '80s, legal scholars developed an academic approach that examines American institutions and laws through the lens of race and racism. So it's been around for decades, and it's used in postgraduate studies. But many Republicans and right-wing media have co-opted this term, and they're using it as a catch-all way of describing basically any conversation about race or racism that makes white people uncomfortable. So conversations about white privilege, having dialogues about anti-racism – these have all been branded falsely as critical race theory.<sup>26</sup>

But how, exactly, did the term become a catch-all, and who is responsible for repurposing the term? Probably more than anyone else, this person is Christopher Rufo.<sup>27</sup> Rufo is a *Fox News* regular and a senior fellow at The Manhattan Institute, a right-leaning think tank. In a 2021 article in *The New Yorker*, journalist Benjamin Wallace-Wells tells how Rufo found the term CRT and made a conscious effort to turn it into the weaponized concept it is today. Rufo read through the footnotes in popular anti-racism books and found that they pointed to academic scholarship from the nineteen-nineties, by a group of legal scholars who referred to their work as critical race theory, in particular Kimberlé Crenshaw and Derrick Bell.<sup>28</sup> In correspondence with Wallace-Wells, Rufo said, “We’ve needed new language for these issues. Critical race theory is the perfect villain.”<sup>29</sup> He acknowledged twisting hot-button racial issues to achieve his aims. In 2021, Rufo admitted on Twitter, in a somewhat bizarre fashion, admitted his twisted plan to rebrand CRT. This message has since been deleted but was printed in a piece from *Time*. It states:

We have successfully frozen their brand—’critical race theory—into the public conversation and are steadily driving up negative perceptions. We will eventually turn it

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<sup>26</sup> Sprunt and Garcia-Navarro, “Understanding The Republican Opposition To CRT.”

<sup>27</sup> Gabriel, “He Fuels the Right’s Cultural Fires.”

<sup>28</sup> Wallace-Wells, “How a Conservative Activist” 2.

<sup>29</sup> Wallace-Wells, “How a Conservative Activist” 3.

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.<sup>30</sup>

Rufo’s quotation displays the deliberate misinterpretation of words by conservatives in order to intentionally control the narrative surrounding public education. Following the socially tumultuous summer of 2020, Rufo went on air with Fox News on September 2, 2020 to further share the term with audiences. On air, he told then host Tucker Carlson “It’s absolutely astonishing how critical race theory has pervaded every aspect of the federal government.... Conservatives need to wake up. This is an existential threat to the United States. And the bureaucracy, even under Trump, is being weaponized against core American values.”<sup>31</sup> Rufo’s adoption and exploitation of the term has had profound effects on American politics, one such example will be explored next. Wallace-Wells said it best:

His [Rufo’s] adaptation of the term critical race theory was itself an effort to emphasize a deep historical and intellectual pattern to anti-racism, and he, too, found it predictable that people encountering it for the first time would be outraged by it. The rebranding was, in some ways, an excuse for politicians to stage the same old fights over race within different institutions and on new terrain.<sup>32</sup>

Winning Republican candidate Glenn Youngkin did just that. After exploiting concerns about the teaching of CRT in public schools in his state, Youngkin won the Virginia gubernatorial 2021 election. Throughout the campaign, his signature issue was education.<sup>33</sup> Voters in Virginia were similarly focused on education. On June 11, 2021, just months before election day, The Republican Party of Virginia released a public opinion poll. The poll found, by a margin of two-to-one, voters are much less likely to vote for an elected official who supports

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<sup>30</sup>Ray, “Critical Race Theory’s Merchants.”

<sup>31</sup> Wallace-Wells, “How a Conservative Activist” 3.

<sup>32</sup> Wallace-Wells, “How a Conservative Activist” 6.

<sup>33</sup> Smith “How did Republicans Turn” 2.

“Critical Race Theory;” that “Critical Race Theory” is viewed negatively by voters in Fairfax and Loudoun counties, especially among older voters, Independents, and public schools; and that Fairfax and Loudoun voters oppose “Critical Race Theory” being taught in local public schools.<sup>34</sup> It is true that right-wing voters, especially parents, were outraged. It is also true that CRT was often a subject of debate in school board meetings in Fairfax and Loudon Counties in 2021. But these debates were reverberated with a dramatic effect. Between March and June 2021, Media Matters, a left-leaning media watchdog group, found that Fox News ran nearly 100 segments on CRT in Fairfax County Public Schools and neighboring Loudoun County Public Schools. The Media Matters analysis also found that many of the commenters positioned as concerned Northern Virginia parents in Fox News coverage were actually Republican strategists or had other significant ties to the GOP.<sup>35</sup>

In October of 2021 in Glen Allen, Virginia, Youngkin announced to a crowd of supporters, “What we won’t do is teach our children to view everything through the lens of race. On day one, I will ban critical race theory.” The crowd applauded.<sup>36</sup> As I previously mentioned, for months leading up to the election, concerns about CRT were blown out of proportion. Not only did Fox News pump out segments about Virginia on national television, but local news sites were also fabricated for the purpose of amplifying CRT in the state. An investigation by Popular Information reported that 28 news outlet sites in Virginia, each claiming to be local outlets, were actually all owned by the same company. These 28 sites published almost 5,000 articles about critical race theory in schools during the campaign.<sup>37</sup> As the gubernatorial race inched closer and closer, the Virginia sites published the articles, many of which addressed bogus Republican

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<sup>34</sup> The Republican Party of Virginia, “New Poll Shows Virginians Reject.”

<sup>35</sup> Gertz, “Fox News Ran Nearly 80 Segments.”

<sup>36</sup> Smith “How did Republicans Turn,” 3.

<sup>37</sup> Gabbat, “The Fake News Sites Pushing,” 1.

claims about CRT threatening to dominate school curriculums. The Virginia “local news” sites, which include the *Central Virginia Times* and the *Fredericksburg Leader*, are all run by Metric Media, an organization that operates more than 1,300 “community news sites” across the US. Metric Media is linked with Locality Labs, both of which are overseen by Brian Timpone.<sup>38</sup> Timpone is an ex-journalist with a track record of operating dubious news organizations.<sup>39</sup> He oversaw all 28 Virginia Metric Media sites which published 4,657 articles about CRT in schools.<sup>40</sup> Thus, the degree of concern over CRT was falsified and exaggerated in Virginia, assisting Glen Youngkin win the Gubernatorial Race in 2021. This example demonstrates the exaggerated impact that the Ed Scare has had on American politics—it is helping candidates get elected, which in turn influences which voices are getting attention and the types of legislation that are being put into place.

The National School Boards Association is adamant that CRT is not being taught in any K–12 schools in the United States.<sup>41</sup> It is difficult to find other evidence proving that CRT is *not* actually being taught in schools. This difficulty lies in the essential fact that people do not agree on the definitions of CRT, or what it includes. Because it has been conflated with many other terms and concepts, it is near impossible to convince people on the far right of this fact. The conflation of the term can also be understood as an intentional attempt by conservatives to contribute to oppression of marginalized groups.

In the article “Linguistic Hijacking,” author Derek Anderson claims that “linguistic hijacking,” a term he coined, is a “form of epistemic and political violence that involves misusing or co-opting politically significant terminology in ways that harm marginalized

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<sup>38</sup> Gabbat, “The Fake News Sites Pushing” 2

<sup>39</sup> Gabbat, “The Fake News Sites Pushing” 3

<sup>40</sup> Gabbat, “The Fake News Sites Pushing” 2

<sup>41</sup> Smith “How did Republicans Turn,” 2.

groups.”<sup>42</sup> It occurs when “dominant groups misuse terminology that marginalized groups use to communicate and theorize about the forms of oppression they experience...it functions to spread misinformation, ignorance, or false belief about the phenomenon.”<sup>43</sup> Anderson’s article applies linguistic hijacking to the words “racist” and “racism.” However, I argue that what conservatives are doing with CRT is yet another form of linguistic hijacking. Reflecting back to Rufo’s blatant admission of “driving up negative perceptions” about CRT and the desire to “eventually turn it [CRT] toxic,” Rufo consciously confessed to the linguistic hijacking of the word. His “rebranding” spreads misinformation, and he knows this. Linguistic hijacking is dangerous because it perpetuates power imbalances by reinforcing dominant narratives and marginalizing dissenting voices. In the case of CRT, conservatives have divorced the term from its academic roots and misrepresented it as a divisive ideology. This deliberate mischaracterization not only undermines the credibility of CRT scholars but also obstructs meaningful discussions about systemic racism and inequality. It deliberately creates a false narrative that discredits the rigorous research and intellectual contributions of those who have sought to uncover and challenge the racial injustices deeply entrenched in American institutions.

Those on the far right use a variety of justifications to defend their position against CRT. Patti Hidalgo Menders, president of the Loudoun County Republican Women’s Club in Virginia, told *The Guardian* “They may not call it critical race theory, but they’re calling it equity, diversity, inclusion. They use culturally responsive training for their teachers. It is fundamentally CRT.” Menders is not the first to make this connection. Many other opponents, often members of those “parental advocacy” groups, incorrectly claim that anything Diversity, Equity, Inclusion

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<sup>42</sup> Anderson, “Linguistic Hijacking,” 2.

<sup>43</sup> Anderson, “Linguistic Hijacking,” 2.

(DEI) is synonymous with CRT, which is just one of the many incorrect flaws of their justifications and an example of linguistic hijacking. DEI and CRT are not the same. The goal of DEI is to foster environments that not only tolerate diversity but actively promote and celebrate it. Another goal is to ensure equitable opportunities and outcomes for everyone and create an inclusive atmosphere where individuals from all backgrounds feel a sense of belonging. Unlike CRT, DEI is not limited to educational arenas, as many modern workplace environments have recognized the importance of DEI. Further, it is not an educational theory like CRT, but rather a set of policies and practices that are able to be implemented into existing structures.

Another justification that conservative critics use when making attacks on African American history is that CRT is “dividing children.” Patti Menders is quoted in *The Guardian* saying, “It’s [CRT] dividing our children into victims and oppressors and what’s a child supposed to do with that?” Another such group, the Alliance Defending Freedom makes a similar claim, that children are being told they are “oppressed” or an “oppressor”—good or bad—based solely on the color of their skin and that “their race determines their outcome in life.” Another bogus claim is that, through CRT, children are being told that “The American system of government must be replaced.”<sup>44</sup> These justifications, and others, have created an echo-chamber that prevents conservatives from understanding what CRT actually is.

Marsha Blackburn, US Senator from Tennessee, justifies her position against CRT by propelling the argument that it is “indoctrinating” children. Like many other conservative politicians in the US, Blackburn has dedicated portions of her website to Critical Race Theory. In July 2021, she released a column on her website about CRT which reads: “For months, parents have raised the alarm about the left’s effort to brainwash our children by injecting Critical Race

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<sup>44</sup> Alliance Defending Freedom, “Help Stop the Indoctrination of Kids.”

Theory (CRT) into public school curriculum.” The column goes on to claim that “Although promoted as “anti-racist” civil rights education, CRT actively encourages discrimination. At its core, CRT segregates people into two main categories: oppressors or victims. The calculation is based solely on skin color.”<sup>45</sup>

As I mentioned, one of the most problematic aspects surrounding the debates over CRT is that, because we cannot agree on what CRT is, we cannot settle whether or not it is being taught. In the article “What is Critical Race Theory?” published on the Alliance Defending Freedom’s website, Neil Hardin argues that despite evidence to the contrary, students are learning CRT in schools. He states:

In these schools, students aren’t learning about Derrick Bell, Kimberlé Crenshaw, or Richard Delgado and Jean Stefancic. And that fact conveniently allows many to deny that critical race theory is being taught in schools at all. But that masks the truth: schools are implementing classroom practices rooted in a CRT-influenced ideology that often masquerades by the name “anti-racism.” Anti-racism is critical race theory’s answer to racism. While “anti-racism” may sound good on the surface (who doesn’t want to stand against racism?), it actually mandates more racism by treating people differently based on race.<sup>46</sup>

Hardin does not suggest what those classroom “practices” actually are, or what “CRT-influenced ideology” includes, other than the fact that it goes under the name of “anti-racism.” However, I infer that he is referring to the notion that race is embedded in American social, political, and legal systems. Hardin does not think students should be learning about systemic racism, which, again, is *not* the same thing as CRT, even if he believes that to be true. Or perhaps Hardin does not think students should learn about diversity, equity, and inclusion. Many of his conservative contemporaries think that DEI is the same as CRT, so it would not come as a shock if he were to conflate the two ideas, as well. If my inference is correct, then it seems the debates over CRT

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<sup>45</sup> Blackburn, “Why Is Critical Race Theory Dangerous For Our Kids?”

<sup>46</sup>Hardin, “What is Critical Race Theory?”

existence in schools cannot be solved. If we cannot agree on the facts, or even the words we use to describe the facts, we will never reach an agreement on whether or not it is being taught in schools.

How have these concerns and debates affected legislation that impacts the classroom?

According to *Education Week*, since January 2021, 44 states have introduced bills or taken other steps that would restrict teaching critical race theory or limit how teachers can discuss racism.<sup>47</sup>

One piece of legislation that falls under the category of limits on the Teaching of African American History is Florida's Individual Freedom Act, H.B. 7 of 2022, also known as the "Stop WOKE Act." This bill was introduced by Bryan Avila. After passing both chambers of the Republican-controlled Florida Legislature, it was signed by Governor Ron DeSantis on April 22, 2022, and entered into effect July 1 the same year.

The size of this legislation, as well as its effect on teaching, is huge. For one, it regulates the instruction on diversity, equity, and inclusion in the workplace.<sup>48</sup> The Act does not prohibit all discussion of the concepts listed in footnote 27, but rather requires that any discussion of the concepts be presented in "an objective manner without endorsement of the concepts." This is the

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<sup>47</sup>Schwartz, "Map: Where Critical Race Theory."

<sup>48</sup> The Act prohibits employers with 15 or more employees from requiring an employee to participate in any form of training that "espouses, promotes, advances, inculcates, or compels such individual to believe" the following concepts: Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of actions committed in the past by other members of the same race, color, sex, or national origin. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion. An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race, color, sex, or national origin. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

typical form that many of the attacks on DEI take. Critics have voiced their concerns that this is an attack on the first amendment because it discriminates against speech based on viewpoint.<sup>49</sup> Another critic of the bill, Katheryn Russell-Brown, wrote an extensive report that investigates and demonstrates the clear nexus between antebellum anti-literacy laws and HB 7, claiming that the bill is the modern-era counterpart.<sup>50</sup> The goal of this section is to analyze efforts to limit the teaching of African American history, which is why I am particularly interested in the section titled, “Revising Requirements For Required Instruction on the History of African Americans” It reads:

Instructional materials shall include the vital contributions of African Americans to build and strengthen American society and celebrate the inspirational stories of African Americans who prospered, even in the most difficult circumstances. Instructional personnel may facilitate discussions and use curricula to address, in an age-appropriate manner, how the individual freedoms of persons have been infringed by slavery, racial oppression, racial segregation, and racial discrimination, as well as topics relating to the enactment and enforcement of laws resulting in racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms has overturned these unjust laws. However, classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with the principles enumerated in subsection or the state academic standards.<sup>51</sup>

This instruction material does not acknowledge the many wrongs in American history. Focusing on “vital contributions” of African Americans is good, but celebrating only the “inspirational stories of African Americans who prospered, even in the most difficult of circumstances” fails to recognize the fundamental truth that most African Americans did *not* prosper in the years during and following slavery. In fact, they suffered unimaginable horrors. Thus, it limits the comprehensive teaching of true African American history. The bill goes on to state that instructors “may,” address how individual freedoms have been infringed. In other

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<sup>49</sup> Vile, “Stop W.O.K.E Act (Florida 2022).”

<sup>50</sup> Russell-Brown, “HB 7, Race, and Florida's 21st Century Anti-Literacy Campaign.”

<sup>51</sup> H.R. 7, 124th Leg. Reg. Sess. (Florida 2022) page 14.

words, it is optional to address the reality that individual freedoms for freed slaves were often infringed upon. The bill asserts that “recognition of these freedoms have overturned these unjust laws,” suggesting that all infringements on civil rights have long been overturned. In this bill, racism is a notion of the past, and only the past. It dismisses the possibility of systemic racism. It suggests that Civil Rights activism of the past has successfully addressed and solved all issues regarding race and personal freedoms. It fails to recognize the continued suffering of African Americans in the Jim Crow Era, the years of separate but equal, the decades of racist housing policies, healthcare disparities, and the continued police brutality against Black Americans in the 21st century, to name a few. The bill makes no effort to acknowledge the individuals or groups that contributed to these instances of discrimination. This bill hides the truth of African American history, and there is no accountability.

In 2021, Hillsdale College in Michigan began to develop the “1776 Curriculum,” inspired by and evolving from Trump’s Commission. which is “a complete collection of lesson plans for teaching American history, civics, and government to K–12 students.”<sup>52</sup> For similar reasons that the Florida bill is problematic, historians and other critics have condemned the curriculum because it omits diverse perspectives, disproportionately emphasizes Eurocentric or white history, and minimizes systemic racism, with some claiming it is historically inaccurate.<sup>53</sup>

The Hillsdale 1776 Curriculum is free for anyone who wishes to download it from their website. Curious as I was, I browsed through the high school instruction material. In every single American History course I have ever taken, Reconstruction has always been given its own unit. This is not the case, however, in the Hillsdale Curriculum. Unit 3 is “The Early Republic” from 1789 to 1848, Unit 4 is “The Civil War” from 1848 to 1877, and Unit 5 is “The Turn of the

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<sup>52</sup> The Hillsdale 1776 Curriculum.”

<sup>53</sup> Smith, “History, Hillsdale Style.”

Century” from 1877 to 1919. The suggested amount of class sessions for the entire unit is 14-18 classes, and it is suggested that Reconstruction is only given 2-3 days of these class sessions. The lesson objective of the miniature Reconstruction section is “Students learn about the remarkable fulfillment of civil rights for freedmen during Reconstruction despite the objections of some and then the reversal of many of those realizations in former confederate states during Reconstruction and after its end in 1877.”<sup>54</sup> Describing civil rights for freedmen during Reconstruction as “remarkable” is not only problematic, but misleading. Further, how are civil rights still “remarkable” *despite* objections and reversals? In a similar manner to the Florida bill, the Hillsdale Curriculum purposefully omits the aforementioned unfortunate truths of American history and instead promotes a sanitized version of that history.

The 1619 Project examines the founding of our country using certain paradigms and frameworks of CRT to challenge the normative understanding of American history. The various authors of these projects and theories knew just how powerful and controversial their ideas were. The right wing groups that oppose them are certainly threatened by their power and influence. The purpose of the 1619 project and CRT are to provide alternative perspectives on American history. If public education continues in the direction of rejecting alternative perspectives, if we cannot accept the possibility that history can be analyzed from more than one perspective, then what is the point of education? Florida’s Individual Freedom Act of 2022 and The Hillsdale Curriculum are clear examples of the widespread rejection by those on the far right of the alternative perspectives provided by CRT and the 1619 project.

The detailed examination of the controversies surrounding the teaching of African American history, particularly through the lens of Critical Race Theory (CRT) and initiatives like

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<sup>54</sup> “The Hillsdale 1776 Curriculum, High School History, Unit 4: The Civil War,” 33.

the 1619 Project, strongly supports the thesis that the “Ed Scare” represents a deliberate and coordinated effort to control the narrative in public education. The deliberate misinterpretation and misrepresentation of CRT by right-wing activists, which I identified as a form of intentional linguistic hijacking, exemplify how conservative forces seek to manipulate public discourse and shape educational policies. Furthermore, the analysis of legislative actions and educational initiatives, such as Florida's Individual Freedom Act and the Hillsdale Curriculum, underscores the systematic attempt to restrict alternative perspectives and sanitize American history. These efforts not only reflect a coordinated agenda to suppress discussions on systemic racism and inequality but also highlight the broader pattern of controlling the narrative in public education to advance particular ideological agendas.

## **Section 2: Limits on LGBTQ Topics/Themes**

Just as the limits on the teaching of African American concepts and history can be understood as a response to the debates and controversy surrounding the 1619 Project and Critical Race Theory, limits on LGBTQ+ themes, topics, and concepts in education can be similarly understood as a response, at least in part, to federal cases granting equal rights to the LGBTQ+ community. These cases include, but are not limited to *Romer v. Evans*, 517 U.S. 620 (1996), *Lawrence v. Texas*, 539 U.S.558 (2003), *United States v. Windsor*, 570 U.S. 744 (2013), and *Hollingsworth v. Perry*, 570 U.S. 693 (2013). These cases, of course, culminate with the landmark case of *Obergefell v. Hodges*, 576 U.S. 644 (2015), which decided that state bans on same-sex marriage and on recognizing same sex marriages duly performed in other jurisdictions are unconstitutional under the Due Process and Equal Protection clauses of the Fourteenth Amendment to the United States Constitution. The central question of this section is, now, in the

post-*Obergefell*, “Ed Scare” years of the 2020’s, what arguments and justifications are being made to limit the teaching of LGBTQ topics?

Conservatives were fired up about *Obergefell*. Former Republican governor of Wisconsin Scott Walker said “As a result of this decision, the only alternative left for the American people is to support an amendment to the U.S. Constitution to reaffirm the ability of the states to continue to define marriage.” Senator Ted Cruz (R, TX) claimed it was “some of the darkest 24 hours in our nation's history,” Former Republican governor of Arkansas Mike Huckabee said “the Supreme Court can no more repeal the laws of nature and nature's God on marriage than it can the laws of gravity.”<sup>55</sup> Whether Americans celebrated or sulked, this historical moment is certainly burned into national memory. The conservative anger displayed in that moment is significant because it has been echoed in the justifications used to target and limit the teaching of LGBTQ topics in schools in recent years.

Of course, there is a deep-rooted, extensive history of anti-gay laws in education that predate *Obergefell*. Many scholars have given attention to this complex history. One such legal scholar, Clifford Rosky, in his article “Anti-Gay Curriculum Laws” identifies the origins of anti-gay curriculum laws in Anita Bryant's “Save Our Children” campaign in Florida in the late 1970s. The goal of her campaign was to repeal a local ordinance that prohibited discrimination on the basis of sexual orientation. She especially focused on the employment of homosexual school teachers. She claimed that homosexual teachers would “molest children,” “serve as dangerous role models,” and “encourage more homosexuality by inducing pupils to look upon it as an acceptable lifestyle.” She protested that “homosexuals do not have the right to influence our children to choose their way of life.”<sup>56</sup> Rosky identifies the passage of the nation’s very first

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<sup>55</sup> Owen, “Conservative Backlash Follows.”

<sup>56</sup> Rosky, “Anti-Gay Curriculum Laws,” 1478.

anti-gay curriculum law in Oklahoma in 1978 as a direct result of Anita Bryant’s campaign.<sup>57</sup> Later in this section, I will explore how her rhetoric animates much of today’s conservative discourse.

Just as I argue *Obergefell* triggered the current wave of laws, Rosky explains that the HIV epidemic triggered another wave of anti-gay curriculum laws from 1986–1996. Ronald Reagan’s Surgeon General, C. Everett Koop, shocked conservative supporters when his report on AIDS claimed, “There is no doubt that we need sex education in schools and that it includes information on heterosexual and homosexual relationships.” Koop addressed conservative critics by saying “our reticence in dealing with the subjects of sex, sexual practices, and homosexuality” was preventing “our youth” from receiving “information that is vital to their health and well-being.”<sup>58</sup> The country listened. By 1990, all 50 states adopted HIV-education laws.<sup>59</sup> Although conservatives could not stop the adoption of HIV and sex-education laws, Rosky points out that they successfully included “anti-gay provisions” within these laws that would require teachers to disparage same-sex relationships as “immoral, criminal, or dangerous.” He states that in 1987 and 1988, nine states adopted anti-gay curriculum laws, and between 1989 and 1996, an additional seven states adopted them.<sup>60</sup>

According to The LGBT Movement Advancement Project, or LGBTMAP, seven states (Florida, North Carolina, Alabama, Arkansas, Kentucky, Indiana, and Iowa) currently have laws that censor discussions of LGBTQ people and themes throughout all school curricula. They are often referred to as “Don’t Say Gay or Trans” or “Don’t Say LGBTQ” censorship laws. These policies “ban or restrict schoolteachers and staff from discussing LGBTQ issues and people at

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<sup>57</sup> Rosky, “Anti-Gay Curriculum Laws,” 1477.

<sup>58</sup> Rosky, “Anti-Gay Curriculum Laws,” 1489-1490.

<sup>59</sup> Rosky, “Anti-Gay Curriculum Laws,” 1490.

<sup>60</sup> Rosky, “Anti-Gay Curriculum Laws,” 1491.

all, often including in books, learning materials, outside presentations, and more.”<sup>61</sup> This style of anti-LGBTQ censorship laws date back to the late 1980s amid the HIV/AIDS crisis, but since 2020 have seen a resurgence—with a much broader and more explicit scope. These more recently enacted policies explicitly censor such discussions throughout all school curricula, not only in sex/health education.

One such bill, Indiana’s HB 1608, was sponsored and introduced by state senators Stacey Donato, Jeff Raatz, and Gary Byrne in January of 2023. On May 4, 2023, Governor Eric Holcomb signed HB 1608 into law. Chapter 17, section 2 prohibits “A school, an employee or staff member of a school, or a third-party vendor used by a school to provide instruction may not provide any instruction to a student in prekindergarten through grade 3 on human sexuality.” The bill does not, however, define “human sexuality.” This vagueness has been a source of complaint for teachers such as Kayla Smiley. The American Civil Liberties Union (ACLU) of Indiana filed a lawsuit on behalf of Smiley, who claims that HB1608 infringes on her constitutional due process and First Amendment rights. The lawsuit states because these terms are so broad, Smiley cannot determine how she should conform her instruction to the law without losing her teaching license.

The law also requires schools to notify parents if students request a name or pronoun change, “A school shall notify in writing at least one (1) parent of a student, if the student is an unemancipated minor, of a request made by the student to change the student's: (1) name; or (2) pronoun, title, or word to identify the student.” Stacy Donato, one of the state senators who proposed it, made the following statement regarding the bill; “Parents need to know what's going on in their child’s life – especially at school. We want schools to be working with parents, but

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<sup>61</sup> Movement Advancement Project, “Equality Maps,” 1.

not be replacements for parents.” On first glance, this reasoning appears logical. Most would agree that parents *do* have the right to know what is going on with their child. But critics have pointed out just how dangerous exposing a child’s gender identity or sexual concerns could be. The ACLU of Indiana, which officially opposes the bill, stated, “These types of forced outing bills expose youth to the threat of additional violence at school and at home.”

Let’s say, for example, that an eight-year-old child attending public school in Indiana comes into school and tells their teacher that they feel more like a boy than a girl. Now let’s assume that this child’s parents are overwhelmingly opposed to LGBTQ rights. With this law, the child’s teacher is now required to disclose what the child said. When children in this situation go home, it is possible they might face emotional shaming or physical violence.

It could be reasonably argued that children in kindergarten through third grade *are* too young to be discussing sexuality. After all, we can assume that they have not been through puberty or had sexual relations yet. It is also reasonable to assume that children of that age are too young to make permanent decisions about their gender, which is also something that many opponents say. However, third graders are not the only ones being restricted from comprehensive sex education.

Florida’s H.B. 1069 was signed into law on May 17, 2023 by Governor DeSantis. This law has been called an extension of 2022’s HB 1557, which has often been called the “Don’t Say Gay Bill.” H.B. 1069 purports to “protect” children. In short, official policy in Florida schools, as of July 1, 2023 when the law took effect, a student is either a male or female. The policy holds that gender was assigned at birth, and cannot be changed. Even if a student does not feel aligned with their birth gender, it is “false” to call them by their preferred pronoun, and Florida educators are barred from doing so. The sweeping legislation limits K–12 classroom instruction on various

topics like reproductive health and gender identity, prohibits schools from enforcing policies requiring the usage of individuals' preferred pronouns, and it extends classroom material-challenging powers for parents.

Most notably, H.B. 1069 “Extends the prohibition on classroom instruction on sexual orientation or gender identity to prekindergarten through grade 8.”<sup>62</sup> The original “Don’t Say Gay Bill” of 2022 prohibited instruction until third grade, and this bill of 2023 extends the prohibition until 8th grade. This is a considerable difference. Again, it has been argued that third graders are too young to discuss sexuality or gender. However, eighth graders are 14 years old. Most 14-year-olds have either begun, are in the process of, or are already finished with puberty. It is reasonable to assume that students in the kindergarten through third grade stage probably do not have an understanding of sex. On the other hand, there is a good chance that eighth graders know what sex is, or may have even had sex already. All the same, their understanding of sex might be misinformed. It is fair to assume that they could have questions about sex or safe sex practices, but Florida’s extension of the “Don't Say Gay Bill” makes it illegal for educators to answer those questions.

Sexual education was, is, and always will be, vital to health. Again, in the AIDS Report of 1986, Surgeon General C. Everett Koop stated, “We can no longer afford to sidestep frank, open discussions about sexual practices – both homosexual and heterosexual.”<sup>63</sup> Although AIDS does not pose as big a threat today as it did in 1986, Koop’s words still resonate. Open discussions of sexual practices are only “dangerous” to parents who are trying to shelter their children from diverse representations of sexual identity. Reasonable people can agree that we do not need students to learn about sexual acts at school. However, students who may be struggling

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<sup>62</sup>Florida H.B. 1069, 1.

<sup>63</sup> Rosky, “Anti-Gay Curriculum Laws,” 1489-1490.

with their sexual identity, and might not be able to get answers at home, deserve to have access to knowledge and representation. Those enacting these types of censorship laws seek to limit this availability and representation.

In his conclusion, Rosky discusses the justifications that were used by states for the anti-gay curriculum laws in the years before the national legalization of gay marriage, and then he advocates the need for challenging these laws:

In the years before *Lawrence*, anti-gay curriculum laws could have been upheld as means of deterring students from engaging in criminal conduct; before *Obergefell*, they could have been upheld as a means of deterring students from engaging in sexual activity outside of marriage. Now that sodomy and marriage laws have been invalidated, the discriminatory language in anti-gay curriculum laws can no longer be justified by reference to these other laws...the Supreme Court's jurisprudence is clear. States may not injure and stigmatize lesbian, gay, and bisexual children for the same reasons that they may not injure and stigmatize lesbian, gay and bisexual people of any age. Now that LGBT advocates have the legal opportunity to challenge the anti-gay curriculum laws, they may have a moral obligation to seize it. By challenging one of the country's last bastions of state sponsored homophobia, advocates can begin to integrate LGBT youth into the communities, as well as the curricula, of our nation's public schools.<sup>64</sup>

As Rosky stated, *Obergefell* creates a precedent where previously upheld justifications are now invalid. But what about now, in the aftermath of *Obergefell*? Since, as he points out, modern anti-gay curriculum laws can no longer be justified in reference to other laws, how *do* opponents justify these laws now? The central question of this section is, now, during the "Ed Scare," what arguments and justifications are being made?

Proponents of these modern anti-gay curriculum laws often use the justification that educators are "grooming" children. In March 4, 2022, Christina Punshaw, who is the press secretary to Ron DeSantis, suggested on twitter that the "Don't Say Gay Bill," (addressed more extensively later in the section) would more accurately be described as the "Anti-Grooming

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<sup>64</sup> Rosky, "Anti-Gay Curriculum Laws," 1535.

Bill.” Next, she suggested that anyone who opposes the bill is “probably a groomer” or at least, does not “denounce the grooming of 4-8 year-old children.”<sup>65</sup> Other conservative supporters of the bill were quick to adopt this groomer rhetoric. Just five days later, on her March 9 show, Fox News host Laura Ingraham followed suit, asking, “When did our public schools, any schools, become what are essentially grooming centers for gender identity radicals?”<sup>66</sup> Benny Johnson, the Chief Creative Officer for conservative group Turning Point USA, tweeted on March 11 that “If you believe perverted groomer teachers should be allowed to sexualize kindergartners and parents have no right to know or protest than [sic] you are a sunken demonic person. Find God.”<sup>67</sup>

What is the point of using terms such as “grooming” and “perverted?” For one, it mimics the rhetoric used to describe sex offenders and how they come in contact with their victims. In turn, it equates teachers who are a part LGBTQ+ community, or even those that sympathize with that community, with criminals and perverts. It paints the picture that teachers are “sexualizing” children, which echoes Anita Bryant’s claim that teachers were “molesting” children.

However, where Bryant was more frank in her claim that homosexual teachers were dangerous role models for children, modern conservative opponents, in this social climate, cannot be so explicit. It is undeniable that “gay” has been increasingly represented and normalized in American society in recent years. While parents can control their children in the home, they cannot control what their kids, at the very least, *see* during the school day. Conservatives may argue that, in good education, children should not see anything that they do not see at home. As Casey Pick said, “The use of the term grooming is an attempt to distort the

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<sup>65</sup> Laviertes, “‘Groomer,’ ‘pro-pedophile’: Old Tropes Find New Life.”

<sup>66</sup> Laviertes, “‘Groomer,’ ‘pro-pedophile’: Old Tropes Find New Life.”

<sup>67</sup> Johnson, X post, 11 March 2022.

goal of teachers who are being intentional about expressing their acceptance of LGBTQ people, or perhaps sharing their own stories...so that all students can know that they have representation within the school.”<sup>68</sup>

The “grooming” justification is an attempt to equate diverse representations of gender and sexuality by teachers as a crime. Calling teachers “perverts” or accusing them of “grooming” also suggests that teachers are strategically acting on their own sexual self-interests. Anita Bryant was saying things in the 70s that would be unacceptable to say in the modern social climate. However, the sentiment behind both Bryant’s campaign and modern proponents of the “grooming argument” presents itself in a similar manner. These conservative parents want to control the moral climate of their children, and they will, under false pretenses, accuse people of being “perverts” or “grooming” their child to do so.

I argue that the portrayal of educators as “groomers” within debates over anti-gay curriculum laws counts as another form of “linguistic hijacking.” By framing teachers who advocate for LGBTQ+ inclusion as groomers, proponents of these laws propagate the narrative that LGBTQ+ individuals pose a threat to children, thus reinforcing existing power imbalances that marginalize LGBTQ+ perspectives. This characterization also marginalizes dissenting voices within the educational community by delegitimizing their perspectives and discouraging challenges to the status quo. Furthermore, it spreads misinformation about the intentions of LGBTQ+ educators and the benefits of inclusive education, perpetuating false beliefs about the LGBTQ+ community. Overall, the framing of educators as “groomers” serves to reinforce power imbalances, silence dissent, and spread misinformation about LGBTQ+ individuals and their allies.

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<sup>68</sup> Kruesi and Phan, “Grooming’

The deliberate targeting of LGBTQ+ topics, as evidenced by the resurgence of anti-LGBTQ+ legislation in states such as Indiana and Florida, mirrors the intentional nature of efforts to limit discussions on race and ethnicity outlined in section one. Both movements seek to impose narrow ideological frameworks on education, shaping the narrative to fit specific, conservative agendas. Further, in both sections, we see the use of similar tactics, such as vague language in the legislation and linguistic hijacking. These coordinated strategies aim to marginalize and censor minority voices. By examining the interconnectedness of these movements, it is clear that the “Ed Scare” is not an isolated phenomenon, but rather a calculated campaign to exert control over the content and discourse in public education.

### **Section 3: Book Banning**

At the same time as attacks and limits on the teaching of African American History and LGBTQ+ themes in education are increasing, book banning is at an all-time high. In sections one and two I referred to pieces of legislation that explicitly ban the discussion of certain topics in schools. Book banning is yet another way through which the attacks of the “Ed Scare” are occurring, specifically at a more local level.

PEN America’s latest report, titled “Banned in the USA,” reveals a significant rise in book bans in public schools and libraries, with over 3,000 instances recorded from July 1, 2022, to June 31, 2023, a 33 percent increase from the previous year. These bans occurred across 33 states and 153 public school districts. During the first half of the 2022-23 school year (July to December) PEN America’s Index of School Book Bans lists 1,477 instances of individual books banned, affecting 874 unique titles, an increase of 28 percent compared to the prior six months, January to June 2022. The American Library Association documented 1,269 demands of book

censorship in 2022. It was the highest the organization had ever recorded since it began collecting censorship data more than 20 years prior.<sup>69</sup>

The history of book banning and efforts to suppress “obscene” materials in America is hardly new. The Comstock Act of 1873 made it illegal to send “obscene, lewd or lascivious,” “immoral,” or “indecent” publications through the mail. The act censured and sought to limit the distribution, not only of “pornography” but also materials regarding birth control, women's health, sex education, and the like. This led to a censure of books that dealt with such topics. Earlier in the 19th century, there were attempts to ban Harriet Beecher Stowe’s *Uncle Tom’s Cabin* (1852) throughout the Old South.<sup>70</sup> The 20th century and all of its social movements, and perhaps in response to those social movements, also saw its share of book bans. Books such as *Catcher in the Rye* (1951) by J.D. Salinger faced censorship due to its use of profanity and sexual content. Harper Lee’s *To Kill a Mockingbird* (1960) faced censorship for its depiction of race relations in the South. Countless other books have been challenged throughout US history.

The following is a list, according to the ALA, of the most commonly banned books of the 2022–2023 school year. *Tricks*, by Ellen Hopkins, with 33 bans, *The Bluest Eye*, by Toni Morrison, with 29 bans, *Looking for Alaska*, by John Green, with 27 bans, *A Court of Mist and Fury*, by Sarah J. Maas, with 27 bans, *Gender Queer: A Memoir*, by Maia Kobabe, with 26 bans, *The Perks of Being a Wallflower*, by Stephen Chbosky, with 25 bans, *Thirteen Reasons Why*, by Jay Asher, with 24 bans, *Sold*, by Patricia McCormick, with 24 bans, *Crank*, by Ellen Hopkins, with 23 bans, *Identical*, by Ellen Hopkins, with 22 bans, and *Empire of Storms*, by Sarah J. Maas with 22 bans.<sup>71</sup> The commonality among them is often their exploration of sensitive or

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<sup>69</sup> Garcia, “American Library Association Reports.”

<sup>70</sup> Simkins and Roland, “A History of the South,” 200.

<sup>71</sup> Tolin, “The 11 Most Banned Books Of The 2022-2023 School Year.”

controversial topics such as sexuality, drug abuse, mental health, and challenging social issues. Additionally, some of the books, like those by Ellen Hopkins, may address these themes through a young adult perspective, which can contribute to the objections from certain parents, communities, or school boards.

Many of the books that have been challenged or banned in the 21st century in the United States are censured for their depictions of race and sexuality.<sup>72</sup> The American Library Association (ALA) has kept an archive of the top ten most challenged books every year since 2001. Skimming that list, the words “sexually explicit” and “unsuited for age group” surface time and time again. In more recent years, these reasons have often shifted specifically to restrictions due to LGBTQ+ content.<sup>73</sup> The ALA found that, between January 1, 2023 – August 31, 2023, most of the challenges were to books written by or about a person of color or a member of the LGBTQ+ community.<sup>74</sup> Similarly, PEN America found that, “Overwhelmingly, book bans target books on race or racism or featuring characters of color, as well as books with LGBTQ+ characters.”<sup>75</sup>

Not only are book bans themselves increasing, but state legislatures have passed laws that make it easier for parents to challenge books. One example is Arkansas Senate Bill 81, which was introduced in the state legislature in January 2023. The title of the bill is “To amend the law concerning libraries and obscene materials; to create the offense of furnishing a harmful item to a minor; and to amend the law concerning obscene materials loaned by a library.”<sup>76</sup> In March of

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<sup>72</sup> See *Book Banning in 21st-Century America*, by Emily Knox. Her study is based on thirteen contemporary book challenge cases in schools and public libraries across the United States. She argues that understanding contemporary reading practices, especially interpretive strategies, is vital to understanding why people attempt to censor books in schools and public libraries.

<sup>73</sup> ALA Office for Intellectual Freedom, “Top 10 Most Challenged Books List.”

<sup>74</sup> Garcia, “American Library Association Reports.”

<sup>75</sup> Meehan and Friedman, “Banned in the USA.”

<sup>76</sup> Arkansas Act 372, 94th G.A. (2023).

2023, Republican Governor Sarah Huckabee Sanders signed the bill into law. It is hereafter referred to as Act 372. It took effect in August 2023. This legislation expands parents' rights to challenge book materials in municipal libraries, as well as public school classrooms and libraries. Florida's H.B. 1069, the extension of the "Don't Say Gay" bill, includes a similar provision. An earlier draft of the Arkansas bill, in particular, had a punitive aspect, proposing that librarians could get charged for providing inappropriate materials to children. However, on July 29, 2023, a federal judge temporarily blocked two key provisions that would have exposed librarians and booksellers to criminal liability for making allegedly inappropriate or "harmful" books accessible to minors in the state.<sup>77</sup>

Section 4 of Act 372 amends the process of challenging library materials in schools. Now, for concerned parents in Arkansas, getting rid of a disagreeable book is not so difficult. It requires that the person challenging the book must meet first with the principal to file a complaint. Then, the principal and the school district's own selected committee review the book and make a decision whether to leave it where it is or move it to the 18+ section. If they disagree with the decision, the person who submitted the initial request can appeal the committee's decision to the school board of directors for the district. The decision of the board of directors is final. Section 5 of the bill creates an identical process for municipal libraries.

Critics of Act 372 were quick to make their voices heard. On June 2, 2023, A group of libraries, bookstores, and publishers filed a federal lawsuit to challenge the Arkansas law. The suit describes the law as "a vague, sweeping law that restrains public libraries and booksellers in Arkansas from making available constitutionally protected books and other media to their patrons and customers."<sup>78</sup> Specifically, the plaintiffs of the suit seek to "preliminarily and

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<sup>77</sup> Albanese, "Federal Judge Blocks Parts."

<sup>78</sup> *Fayetteville Public Library v. Crawford County*, 2023 Ark. District 2.

permanently enjoin enforcement of, and declare facially unconstitutional and void, Sections 1 and 5 of Act 372 as violations of their rights under the First and Fourteenth Amendments to the U.S. Constitution.” As of June 29th, the Central Arkansas Library System has raised \$25,000 in private donations to pay for the suit.<sup>79</sup>

According to the lawsuit, the aforementioned challenging procedure outlined by Act 372, “violates the First and Fourteenth Amendment in that it (a) imposes an unconstitutional prior restraint on constitutionally protected material; (b) is unconstitutionally vague; and (c) lacks any judicial review of a decision to remove materials from a library’s main collection.”<sup>80</sup> In a lengthy opinion and order, judge Timothy L. Brooks concluded that portions of the law are “too vague to be understood and implemented effectively” and that, if enacted, would “permit, if not encourage, library committees and local governmental bodies to make censorship decisions based on content or viewpoint, which would violate the First Amendment.” The judge went on to make a very strong point: “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”<sup>81</sup> This line of argument originally comes from *Texas v. Johnson*, 491 U.S. 397, 414 (1989). When looking at the justifications for book banning in subsequent paragraphs, it is clear that this “bedrock principle” is violated time and time again. Other opponents of the law have said it will be used to reduce access to content that reflects the general public, such as the LGBTQ+ community.<sup>82</sup>

How can we interpret and understand the justifications for book banning? Emily Knox is an associate professor in the School of Information Sciences at the University of Illinois at

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<sup>79</sup> Coop, “Central Arkansas Library Systems”

<sup>80</sup> *Fayetteville Public Library v. Crawford County*, 2023 Ark. District 4.

<sup>81</sup> *Fayetteville Public Library v. Crawford County*, 2023 Ark. District, 8

<sup>82</sup> Vrbin, “Federal Judge Temporarily Blocks.”

Urbana-Champaign. In her article, “Silencing Stories: Challenges to Diverse Books,” she analyzes real complaints from parents about books and focuses on two common themes found in the arguments that book challengers give for the redaction, restriction, relocation, and removal of diverse titles in and from school curricula, school libraries, and public library collections in the U.S. One argument is that the books are “unsuitable for the age group” and the other is that “something (anything) else would be better.”

The first argument, as Knox points out, is often used when suggesting the censorship of LGBTQ+ books. This argument is a “special emphasis on age-appropriateness.”<sup>83</sup> Knox contends that, “It is, of course, impossible for a book on LGBTQ topics not to discuss human sexuality in some respects because, by definition, this is an integral part of the LGBTQ—if not the T—experience. Also note that these arguments take the viewpoint that books about heterosexual and gender conforming children do not discuss human sexuality.”<sup>84</sup> Similar to the argument I outlined in the section on the limits on LGBTQ+ concepts in section 2, certain parents are explicit in the sense that they do not want their children seeing anything that strays from their opinions, however bigoted or backward they might be. Knox makes this point clear, as well. For certain challengers, “children simply should not be introduced to non-dominant sexual and gender identities.”<sup>85</sup> In other words, many who are challenging these books take the view that anything that they disagree with is not age appropriate.

The second theme Knox found in the justifications is that “something (anything) else would be better.” These parents are arguing that another book would be able to convey the same story. For example, one parent thought that Toni Morrison’s *The Bluest Eye* should be replaced

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<sup>83</sup> Knox, “Silencing Stories,” 31.

<sup>84</sup> Knox, “Silencing Stories,” 31.

<sup>85</sup> Knox, “Silencing Stories,” 32.

with Ben Carson's memoir, *Gifted Hands: The Ben Carson Story* (1990). Knox points out that these two stories are not similar at all, "Here the challenger argues that the African American experience is a single story. Ben Carson's memoir is similar and would convey the same message as Morrison's *The Bluest Eye*, even though one is non-fiction, the other fiction, one discusses a year in a young girl's life, the other a man's journey to adulthood."<sup>86</sup> In general, by suggesting replacement books, people who do not necessarily belong to minority groups are proposing that they understand the minority experience. As Knox argues in general, "Overall the themes in this discourse of censorship against diverse books center on the idea that an entirely different story should be told, one that does not necessarily tell the truth of what it means to be a person with minority identity."<sup>87</sup>

It is clear that the book banning is occurring in tandem with the other attacks outlined in previous sections of my paper, and all of these recent phenomena are connected. Book banning is a relatively tangible and accessible medium that presents a solution to the alleged problems with the social climate of public education. In many cases, one does not have to be involved with the school board or hold any position of power to challenge books. Although the number of conservative states and their law-making powers are limited to a certain extent, factions of conservative parents exist in every state. Indeed, books are being challenged and banned in both red and blue states. If a state is not red enough to successfully implement the type of legislation described in section one and two of this paper, conservative citizens can always just push their agenda through challenging books.

The same rhetoric used by supporters of legislation that limited the teaching of LGBTQIA+ themes in education is often similarly used by conservative parents that support

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<sup>86</sup> Knox, "Silencing Stories," 32.

<sup>87</sup> Knox, "Silencing Stories," 32.

these book bans. The “grooming” argument that was explained in my last section claims that teachers are actively participating in the indoctrination of their students. However, I argue that the same charge cannot always be alleged against books. Required reading is an exception, but students that read for fun are being deprived of books in both school and municipal libraries. Students should have the freedom to choose whatever books they wish to read in their free time, and those books should be available for free in libraries. Further, the intention of teachers cannot be equated with the intention of authors. If teachers are not actively participating in the promotion of a certain book, is it really indoctrination if a student seeks the title on their own?

The justifications or reasons for challenging books tend to reflect many of the justifications that have been claimed in earlier sections of my paper. When critics of books claim that they are not “age appropriate,” their concern tends to be over the queer nature of the sexual content rather than the presence of sexual content themselves. There are a multitude of conservatives who feel the need to control the moral atmosphere of schools, often under the guise of “parental advocacy.” However, it is clear that many of the efforts to challenge books by these parents display the desire to keep their children away from any diverse themes that stray from what they may see at home.

This section on book banning offers substantial support for my thesis asserting that the “Ed Scare” is a deliberate, coordinated, and intentional endeavor to control the narrative in public education. Through legislative actions such as Arkansas Senate Bill 81 and subsequent legal challenges, the calculated intent to restrict certain narratives becomes evident. These measures are not isolated incidents but rather reflect a nationwide phenomenon, with book bans occurring across various states and regions. Moreover, the coordination involved in these efforts extends beyond local boundaries, as conservative groups purposefully inspire and support similar

actions in other parts of the country. The motivations behind book banning, as outlined in this section, underscore the concerted nature of these endeavors. Analyzing the justifications provided by book challengers reveals a deliberate attempt to exclude certain perspectives from public education, highlighting the conservative agenda driving the “Ed Scare.”

#### **Section 4: Academic Freedom and Divisive Concepts in Higher Education**

“Academic freedom” is commonly defined as the right of scholars and educators to express their ideas without the risk of interference or professional disadvantages. For example, the American Library Association defines it as, “the conviction that the freedom of inquiry by faculty members is essential to the mission of the academy as well as the principles of academia, and that scholars should have freedom to teach or communicate ideas or facts (including those that are inconvenient to external political groups or to authorities) without being targeted for repression, job loss, or imprisonment.”<sup>88</sup> The first two sections of my paper, the efforts to limit the teaching of African American history and LGBTQ+ topics and themes, certainly constitute infringements on academic freedom, especially where those kinds of laws might have punitive aspects for educators who fail to comply. If we expand the definition of academic freedom as not only the right of educators to teach but also the rights of students to freely learn, then my third section, book banning, is another fervent infringement of academic freedom. For the most part, the first three sections dealt with secondary education. My final section, on the other hand, wrestles with higher education and the more broad, yet abstract attempt to violate academic freedom in this arena. This is the banning of “divisive concepts.” The term “woke” is often used to justify these attempts.

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<sup>88</sup>American Library Association, “Academic Freedom.”

One such institution that, in part, inspired this conservative movement across higher education is the New College of Florida (NCF) in Sarasota. NCF was established as a private liberal arts college in the 1960's and later became a public liberal arts college in 1975. The school was once known for its distinct academic model which emphasized small classes, faculty-student collaboration, and a rigorous curriculum. In January of 2023, Ron DeSantis, governor of Florida and Republican candidate for the 2024 presidential election, began a complete overhaul of the school. DeSantis claimed that he wanted to model the school after Hillsdale College.<sup>89</sup> As referenced in my first section, Hillsdale College is the institution that created the “patriotic curriculum” aligned with the goals of the 1776 Commission. According to the *New York Times*, DeSantis was concerned with “woke indoctrination” on the campus. The campus administration, newly appointed by DeSantis, is now full of conservative allies.<sup>90</sup> One of the leadership's first acts was eliminating the college's diversity, equity, and inclusion office. Soon after, the diversity chief and the academic librarian, both members of the L.G.B.T.Q. community, were fired.<sup>91</sup> None other than Christopher Rufo, the manipulator behind the “re-branding” of Critical Race Theory referenced in my first section, was elected to the NCF's Board of Directors.

In the months following the overhaul of the NCF, many other Republican leaders have followed suit, making legislative efforts to overhaul higher education. Ohio's Senate Bill 83 is one such attempt. On March 14th, 2023, Jerry Cirino, a Republican state senator representing Ohio's 18th district, and chair of Ohio Senate's higher education committee, sponsored Ohio

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<sup>89</sup> Mazzei, “Sports Are In, Gender Studies Are Out.”

<sup>90</sup> The New College of Florida's Board of Trustees consists of 13 members dedicated to the purpose of the State University System. Six citizen members are appointed by Florida's Governor and five citizen members are appointed by the Florida Board of Governors. In 2023, Ron DeSantis appointed Christopher Rufo, Dr. Matthew Spalding, Dr. Charles R. Kesler, Dr. Mark Bauerlein, Debra Jenks, and Jason “Eddie” Speir to the New College of Florida Board of Trustees.

<sup>91</sup> Mazzei, “Sports Are In, Gender Studies Are Out.”

Senate Bill 83. As we saw with Glenn Youngkin in Virginia, education has been the top priority for many Republican leaders running for office in the past few years. Cirino told journalist Adam Harris that he noticed “the relative absence of conservative voices on campuses,” which is why he made “taking a look at how we can make higher education better,” a plank of his successful campaign.<sup>92</sup> He is the sponsor of the bill, and the target is public university students and professors. The bill remains as proposed legislation, but it is worthy of analysis due to its controversial suggestive efforts and its place in the larger national conversation.

Among other things, the bill seeks to make changes to post-tenure review, banned faculty from striking, and required the elimination of DEI statements in hiring. It also altered how university trustees were appointed and trained.<sup>93</sup> Particularly troubling to academic freedom is the provision that bans institutions from endorsing or opposing any controversial belief or policy, specified concept, or specified ideology.<sup>94</sup> In the bill, “controversial belief or policy” means “any belief or policy that is the subject of political controversy, including issues such as climate policies, electoral politics, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion.” “Specified concept” means a concept such as allyship, diversity, social justice, sustainability, systematic racism, gender identity, equity, or inclusion. “Specified ideology” means any ideology that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, and prescribes advantages, disadvantages, or segregation based upon identity group membership.<sup>95</sup>

Critics have been vocal in their opposition to the bill. Honesty for Ohio Education, a non-partisan state-wide coalition that champions honest education, does not support the bill.

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<sup>92</sup> Harris, “An Existential Threat.”

<sup>93</sup> Harris, “An Existential Threat.”

<sup>94</sup> Ohio S.B. 83, 27.

<sup>95</sup> Ohio S.B. 83, 25.

According to their website, Senate Bill 83 is bad for students, “Rather than cultivating learning environments that help students understand complicated aspects of our shared history, uncomfortable truths, and complex systems of power, SB 83 whitewashes history, sanitizes the truth, and reduces lived experiences around race and identity to controversial beliefs and policies.”<sup>96</sup> The group’s website also claims that the bill “prohibits public colleges and universities from speaking out on important issues,” which “forces them to turn campuses into safe spaces for hate speech; and prohibits faculty and staff at public colleges and universities from striking, taking away a powerful tool to advocate for themselves and their students.”<sup>97</sup>

Sara Kilpatrick, executive director of the Ohio Conference of the American Association of University Professors, made an interesting point about the dangerous effects of the bill that reach beyond the university setting. She asked “Are big employers like Intel still going to want to be here? Are we going to be able to provide these employers with employees that can think for themselves, that can communicate, that are well-rounded, that are adaptable?”<sup>98</sup> It’s not only about what students encounter while inside higher education. The “Ed Scare” creates legitimate concerns for the upcoming workforce.

Other states, like Texas under Governor Gregg Abbott, have passed similar laws impacting academic freedom in higher education in 2023. As Adam Harris concisely outlined, many factors have made this year a pivotal and dangerous time for higher education,

This year is a defining moment for American higher education, one that will decide whom institutions admit, who will teach those students, and what those professors can teach. For those on the right, it’s a reclamation, clawing back a set of American institutions that they believe have veered too far to the left. But for many administrators, professors, and historians, these changes risk destroying the pillars—shared governance,

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<sup>96</sup> Honesty for Ohio Education, “S.B. 83.”

<sup>97</sup> Honesty for Ohio Education, “S.B. 83.”

<sup>98</sup> Kuntz, “Critics Wary of Ohio Senate Higher-Ed Bill.”

academic freedom, free inquiry—that have held up the world’s greatest system of higher education for more than a century.<sup>99</sup>

Harris was, of course, referencing the Supreme Court’s decision that ruled the race-conscious admissions systems at Harvard and the University of North Carolina at Chapel Hill to be unconstitutional. I suggest that this “defining moment” would also include the other attacks on secondary education, as outlined in sections one, two, and three of my paper. What I mean to say is that all of these attacks on academic freedom are occurring in tandem. In particular, this “defining moment” is demonstrating the dramatic difference in the direction of public education, in both secondary and higher education arenas.

Universities are releasing responses to the attacks of this defining moment. Two such examples are Middle Tennessee State University (MTSU) and University of Tennessee Knoxville (UTK). For context, in 2022, Tennessee lawmakers passed H.B. 1376 that allows state leaders to withhold funding for schools that teach about social, cultural and legal issues related to race and racism.<sup>100</sup> Here are just a few of the divisive concepts that are banned: “That one race or sex is inherently superior to another race or sex, That a person, by virtue of their race or sex, is inherently privileged, racist, sexist or oppressive — whether consciously or subconsciously, That a person should be discriminated against or receive adverse treatment because of their race or sex.”<sup>101</sup> At first, these provisions often seem relatively uncontroversial, proposing statements that seem like something everyone would agree on. Then, the bill suggests a more controversial statement, such as, “Tennessee or the U.S. is fundamentally or irredeemably racist or sexist.”<sup>102</sup> In April of 2023, Tennessee passed an extension of that law, S.B. 817. The extension invites

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<sup>99</sup> Harris, “An Existential Threat.”

<sup>100</sup> Quinn, “Tennessee Again Targets ‘Divisive Concepts.’”

<sup>101</sup> Tennessee HB 1376.

<sup>102</sup> Tennessee HB 1376.

students and employees to report any professors who violate the law's provisions and teach about said concepts.<sup>103</sup>

How are conservatives justifying their arguments? For one, they often invoke the term “woke.” To these conservatives, “woke” is the enemy. It is liberal in its origins and a source of progressive ideologies. Similar to CRT, it is a term that represents and encapsulates all which they do not agree with. They claim that “woke” is sweeping the nation, and particularly plaguing higher education institutions. On November 12, 2023 on *Fox News Sunday Morning Futures* with Maria Bartiromo, Senator Ted Cruz equated the term with a pandemic, calling American universities “the Wuhan lab of the woke virus.”<sup>104</sup> Ron Desantis has repeatedly used the term “woke.” At a campaign event in Virginia in summer 2023, he claimed that Florida is the place where “woke goes to die.”<sup>105</sup> His overhaul of the New College of Florida certainly supports that claim. Without a doubt, “woke” has become a sort of catch-all concept that is associated with excessive political correctness. The nature of this term is, again, similar to that of CRT in the sense that the majority of people on the right cannot adequately define “woke.” Further, it evokes a sense of contempt, even among fellow conservatives. For example, Donald Trump stated that “I don't like the term woke...it's like just a term they use. Half the people can't even define it. They don't know what it is.”<sup>106</sup>

The term itself, like CRT, has been “linguistically hijacked” from its original meaning. In 2018, Elaine Richardson, a professor of literacy studies at the Ohio State University, co-authored an article entitled, “#StayWoke: The Language and Literacies of the #BlackLivesMatter Movement.” She claimed that the term came out of Black culture. In simple terms, she defined

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<sup>103</sup> Quinn, “Tennessee Again Targets.”

<sup>104</sup> Notheis, “Ted Cruz Calls College.”

<sup>105</sup> Montanaro, “Republicans Can't Stop Using the Word Woke.”

<sup>106</sup> Montanaro, “Republicans Can't Stop Using the Word Woke.”

the phrase, “[Woke] means to remain aware of what is going on around you and in society, more specifically, to remain politically aware, or conscious.”<sup>107</sup> This article is from 2018, meaning it was before the death of George Floyd and the ensuing protests in the summer of 2020, when the Black Lives Matter (BLM) movement gained even more national attention. I suggest that the negative feelings among conservatives about BLM since the summer of 2020 has further contributed to their connotation of the term “woke.” Similar to what happened to CRT becoming a sort of blanket term, conservatives seized upon the word to represent all they dislike.

If we take Richardson’s definition of the term to be true, then there really isn’t anything wrong with being “woke.” Many on the left even see it as a positive attribute, reflecting a commitment to social justice and an awareness of political and societal inequalities. It is hard to think of anyone who would be vocally opposed to remaining politically aware. But the reality is, that a majority of conservatives do not define woke that way, and there is little evidence to prove that will change. Once more, like with CRT, because we cannot settle for a common definition of “woke,” I infer that it will remain a contested notion and continue to be used as a justification for attacks on education, specifically in higher education.

In response to this recently enacted legislation, Middle Tennessee State University (MTSU) and The University of Tennessee, Knoxville (UTK) have both released statements. UTK’s was released on the website of the office of the provost, and the header reads, “Many members of our campus community have shared concerns about state legislation that defines what it terms divisive concepts and prohibits their use in mandatory training among other things. In the interest of keeping the campus community informed and supported, we repeat here our guiding principles and provide information about the legislation.” The statement goes on to

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<sup>107</sup> Richardson and Ragland, “#StayWoke,” 42.

summarize the 2022 legislation, the 2023 legislation, and descriptions of legal protection for employees. It states, with the exception of an employee acting maliciously or criminally, that “when individuals are sued in their official capacity as university employees for acts or omissions within the scope of employment, the Office of the General Counsel represents the individual and any judgment or settlement is paid out of university funds or other state funds.”<sup>108</sup> The MTSU statement uses similar language.<sup>109</sup> I infer that the purpose of these statements is a nod to the legislature, assuring them that they are aware of the regulations and are indeed in compliance with the law. This response demonstrates that MTSU, UTK, and many other higher education institutes, are still going to respect diversity, free speech, and academic freedom. They still intend on nourishing and protecting their students and staff despite the legislation

Both the overhaul of the New College of Florida and Ohio Senate Bill 83 are demonstrating trends that limit academic freedom in a general sense; erasing diversity, equity, and inclusion offices, amending the process of electing boards of trustees, and dictating and limiting the content and manner in which “divisive concepts” are discussed, to name a few. Critical thinking is a fundamental, almost universal objective in higher education. If more and more states are to follow behind Florida and Ohio, we are moving away from a system that promotes that objective. With the loss of critical thinking skills, we also run the risk of losing, or at least diminishing, free inquiry, intellectual diversity, free expression, diverse perspectives.

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<sup>108</sup> University of Tennessee Knoxville, Office of the Provost, “Divisive Concepts Legislation: Information and Support.”

<sup>109</sup> Middle Tennessee State University, “Tennessee Divisive Concepts Act.” reads “Another concern is about the future of our training. We will maintain our training on non-discrimination, equal opportunity, and diversity, equity, and inclusion. We do not anticipate any changes in our current practices other than to ensure that our trainings comply with the law. Respect for diversity, which acknowledges our vast cultures and ways of thinking, remains one of our core community standards. We want to assure you that MTSU will continue to provide a variety of activities and programs that will provide opportunities for us to share in the cultures, faiths, customs, and traditions that are important parts of all our backgrounds. We will continue to advance our campus as a marketplace of ideas that celebrates the richness of the wide variety of cultures and life experiences reflected in the MTSU community.”

This section strongly supports the thesis that the “Ed Scare” is a deliberate, coordinated effort to control the narratives in public education. By focusing on infringements upon academic freedom in higher education, ranging from legislative measures to administrative overhauls, this section highlights the more extreme manifestations of the “Ed Scare.” This inclusion of higher education is crucial as it demonstrates the systemic nature of the “Ed Scare” across all levels of education, emphasizing the significance of understanding its impact on institutions that traditionally promote critical thinking and diverse perspectives.

### **Conclusions**

In 2020, Donald Trump stated that “Our youth will be taught to love America with all of their heart and all of their soul.”<sup>110</sup> In 1955, James Baldwin wrote, “I love America more than any other country in this world, and, exactly for this reason, I insist on the right to criticize her perpetually.”<sup>111</sup> Few lines encapsulate the debates of the first section of my paper more so than these. In this section, I analyzed efforts to limit the teaching of African American history. I noted that it is likely that the most recent debates over this topic originated with the 1619 Project. Backlash to that project spurred Donald Trump’s 1776 Commission the following year. At the same time, Christopher Rufo was rebranding Critical Race Theory into a weaponized concept that lit the fire behind conservative fury. The popular misconception of CRT had legitimate political implications, such as Glenn Youngkin’s victory in Virginia in 2021.

This section also assesses how CRT has been conflated with other notions, like diversity, equity, and inclusion practices, and sometimes, even any discussion of race in school. This merging of ideas is intentional, and it is a repeated phenomenon within the broader “Ed Scare” and wrestled throughout my paper. Because of the misconceptions of CRT, it seems near

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<sup>110</sup> Trump, “Remarks at the White House on American History.”

<sup>111</sup> Baldwin, “Notes of a Native Son,” 9.

impossible for those on the right and left to agree on whether or not CRT is being taught in secondary schools.

The first piece of literature I analyzed in this section is Florida's Individual Freedom Act, H.B. 7 of 2022. I particularly noted the section about African American history and scrutinized it for its sanitized view of the past. Sanitizing history is problematic because it involves actively selecting which episodes of history are given adequate attention. The same analysis can be applied to the Hillsdale 1776 Curriculum. Neither said curriculum nor the Individual Freedom Act choose to give adequate attention or comprehensive understanding to the suffering of Black Americans after the Emancipation Proclamation. This leads to a distorted view of the past which obscures the complexities of history. It also actively allows for the perpetuation of myths and stereotypes. Neglecting these realities creates an illusion of linear progress for African Americans.

Conservatives often argue that the effects of the 1619 Project, CRT, and the like, make children feel "guilty" or "ashamed" about being white. There is no legitimate, peer reviewed, psychological or sociological study proving this. Further, because of their mischaracterization of CRT, they are ignoring arguably the most fundamental aspect of it. CRT is not about assigning blame, but rather analyzing systemic racism by emphasizing how historical and institutional structures have contributed to racial inequalities. Systemic racism is not the fault of school-aged white children, and CRT does not claim this. Therefore, to insist that CRT makes white kids feel "guilty" is to falsely distort the intentions of the framework.

American Studies examines history, culture, and politics, seeking to understand the American experience from a variety of perspectives. Ideally, students of American Studies learn to think analytically and systematically. If public education continues in the direction of

silencing both historical and identity-related perspectives, the discipline of American Studies is at risk. Politically motivated decisions about funding, curriculum design, and the hiring of educators could impact the autonomy of American Studies programs and departments. Professors of American Studies may feel pressured to avoid certain topics or perspectives to avoid controversy or punitive action, potentially stifling the academic exploration and critical analysis that defines the field. If policies continue to limit the exploration of diverse narratives, students will miss out on a nuanced understanding of the complexities of American history and culture.

Section 2 of my paper analyzed efforts to limit the teaching of LGBTQ themes, topics, and concepts in education. I noted that the efforts of section two can be understood as a response to the line of federal cases granting rights to the LGBTQ+ community. These cases culminate with the landmark case of *Obergefell v. Hodges*, 576 U.S. 644 (2015). Clifford Rosky pointed out that in the aftermath of *Obergefell*, anti-gay curriculum laws can no longer be upheld or justified in reference to previous laws. This led to my essential question of the paper, how are proponents justifying these laws now, and what makes up their argument?

I noticed similarities between the rhetoric of Anita Bryant's campaign and modern-day proponents. Many concerned conservative parents claim that educators are "perverted" and "grooming" children. In reference to section one, the "grooming" argument is analogous to the "indoctrination" argument used against CRT, in the sense that teachers are actively participating in brainwashing children. Anita Bryant and her adversaries were using more forward language about homosexual teachers. They were saying things like these people were "dangerous role models," that they were "encouraging more homosexuality" and "molesting" children. People today have to adhere more to "politically correct" standards, but I surmise that if they *could*, they would say all the things that Anita Bryant was saying. I also infer that these modern-day

proponents are using the term “grooming” and “perverted” because it equates teachers that are part of the LGBTQ+ community, or at least sympathetic to said community, as sex offenders.

The first piece of legislation I analyzed in this section was Indiana’s HB 1608 which became law in May of 2023. which bans any and all instruction on human sexuality in grades kindergarten through third grade. The law also requires that teachers tell parents if their child requests a pronoun or name change. One of the senators that proposed the law stated that parents deserve to know what is going on in their children’s lives. I do not find that statement all that controversial. I did, however, note that this law could potentially expose children to the threat of additional violence at home if a student has extremely conservative parents.

The next piece of legislation in this section was Florida’s H.B. 1069 which also became law in May of 2023. This law has been called an extension of the “Don't Say Gay” law from 2022 because it extends the prohibition of instruction on sexual orientation and gender identity from third grade to eighth grade. I argued that while maybe third graders are young enough, eighth graders are too old to be censored from discussions of sex. Some eighth graders might be having sex, whether that is straight or queer, and they may have questions. They deserve access to knowledge about safe sex and representation for their identities, and this bill makes it illegal for Florida teachers from answering those questions or providing that sense of acceptance.

Section 3 of my section analyzed the increase in book bans, and I identified book banning as another medium through which the “Ed Scare” is executed. Like with the other sections, I pointed out that book banning is not necessarily new in America and I gave a very concise historical summary. However, as there has been a noticeable increase, I provided evidence displaying the alarming increase in the number of book bans since 2021. The piece of legislation I analyzed in this section in Act 372 of Arkansas. This legislation expands parents’ rights to

challenge book materials in municipal libraries, as well as public school classrooms and libraries. In essence, it makes this process easier for parents, and similar legislation is popping up around the country.

In order to analyze the justification and arguments behind book banning, I referred to the work of Emily Knox. Her study found two major themes in the justification of book banning; a “special emphasis on age appropriateness” that seeks to suppress LGBTQ+ books. This argument assumes the view that books about heterosexual people *never* discuss sexual matters, and only LGBTQ books do. The second theme Knox found was that “something (anything) else would be better.” This theme is often applied to books about race or racial identity, with non-minorities often being the ones recommending book replacements. By doing so, they claim to comprehend minority experiences, but their suggestions actually distort the authentic narrative and display a desire to censor minority voices.

I claimed that book banning is a tangible means to address perceived issues in the social climate of public education. I also stated it is another medium for the “Ed Scare” because it provides yet another outlet for African American and Queer voices to be silenced. Individuals, not necessarily needing to hold influential positions, can successfully challenge and remove books. This trend is observable in both conservative and liberal states, highlighting an accessible and widespread occurrence. Justifications of challenges to books often mirror earlier justifications outlined in the paper. Many conservative parents seek to control school morality under the guise of “parental advocacy,” censoring diverse themes that deviate from their home environment.

Section 4 of my paper explores efforts to violate academic freedom in higher education. It is particularly focused on attempts to ban “divisive concepts.” It highlights examples such as

the overhaul of New College of Florida under Governor Ron DeSantis and Ohio Senate Bill 83, which seek to make significant changes in higher education. I noted that these attacks are occurring, in tandem with the other sections of my paper, during what journalist Adam Harris called a “defining moment” in higher education. The section also discusses the potential consequences of such legislative efforts, including erasing diversity, equity, and inclusion offices, and restricting critical thinking.

I note that conservatives too often use the term “woke” as a rallying point and justification against progressive ideologies. The section explores how the term is employed, drawing parallels with the controversy surrounding CRT. The paper acknowledges the difficulty in defining “woke” and suggests its contested nature will likely persist, being used as justification for attacks on education. The conclusion emphasizes that the actions taken by institutions and legislatures pose a threat to academic freedom, potentially diminishing critical thinking, intellectual diversity, and free expression in higher education.

My proposed alternative is to teach good history. This means to include diverse perspectives. History is not a monolithic narrative. In order for students to obtain a well-rounded and accurate depiction of historical events, they need to learn the history of marginalized groups such as the LGBTQ+ community, African Americans, women, and immigrant groups. Controversies that have animated American civic life cannot be comprehensively studied under this legislation. If public education continues in the direction of rejecting alternative perspectives and censoring important episodes of history, if we cannot accept the possibility that history can be analyzed from more than one perspective, then what is the point of education? Further, when approached appropriately, engaging in debates about “controversial” topics has the potential to cultivate heightened understanding, increased awareness, and greater empathy among students.

By embracing these discussions within the educational context, we create an environment conducive to fostering a more inclusive and enlightened society.

A significant question is why does the “Ed Scare” matter? All of the legislation I covered concerns public education, from kindergarten all the way through to the college and university level. In effect, this has the potential to create a knowledge divide between people who attend public schools versus private schools. Private schools are not legislated away by these laws, and as a result, students graduating from public institutions may possess a different set of knowledge and skills compared to their private school counterparts, although some of the more Christian or conservative private schools are already teaching Hillsdale-style history and have done so for decades. This discrepancy or knowledge gap raises concerns about educational equity and access, as students from public schools, often more diverse in socioeconomic backgrounds, may face challenges in acquiring a well-rounded, comprehensive, enriching, and inclusive education.

A core purpose of education lies not just in the transmission of factual information but, more crucially, in the cultivation of an informed and responsible citizenry. When education is reduced to narrow, ideologically driven narratives, as seen in the proposed legislation, this leads to the possible decrease of the critical thinking skills necessary for a functioning democracy. A well-rounded education should equip individuals with the ability to analyze, question, and engage others on controversial topics. We need citizens who can participate in civic discourse and grapple with the complexities inherent in modern global citizenship. The “Ed Scare” threatens to undermine our ability to cultivate a capable citizenry and educate civic leaders.

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