



Courageous Conversations: The Potential Impact of New Laws, Policies, and Mandates on Access and Voice in Florida

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Issues for Panel Discussion


The panel discussion will focus on the following four issues:

1. F.S. 1004.097 (the law that allows college students in Florida to record professors to show political bias)
2. FLDOE policy interpretation of F.S. 1003.42(2) (banning “critical race theory” from K-12 public schools)
3. FLDOE Addendum to Mathematics Instructional Materials Bid Specifications - Publishers and school districts are NOT to incorporate social emotional learning and culturally responsive teaching
4. Legislative proposal to eliminate the Florida State Assessment and create the Florida’s Assessment of Student Thinking


Structure of Panel Discussion

Panelists will address each issue by:

- Describing new law, policy, or mandate, while providing a national context when relevant
- Exploring their meanings using multiple perspectives
- Discussing the Florida political context surrounding these laws and/or policies
- Considering their implications for educational leaders, schools, and students
- Questions from conference participants are strongly encouraged



F.S. 1004.097 -Campus Free
Expression Act (aka
Recording Professors Law)



Purpose of the Law - Right to Free Speech/Expression on College Campuses

F.S. 1004.097 (3)(a): **Expressive activities protected under the First Amendment to the United States Constitution and Art. I of the State Constitution include, but are not limited to, any lawful oral or written communication of ideas, including**

- All forms of peaceful assembly, protests, and speeches, distributing literature, carrying signs, circulating petitions;
- Faculty research, lectures, writings, and commentary, whether published or unpublished; and
- The recording and publication, including the Internet publication, of video or audio recorded in outdoor areas of campus.
- **Expressive activities protected by this section do not include defamatory or commercial speech**

F.S. 1004.097(3)(b) **A person who wishes to engage in an expressive activity in outdoor areas of campus may do so freely, spontaneously, and contemporaneously** as long as the person's conduct is lawful and does not materially and substantially disrupt the functioning of the public institution of higher education or infringe upon the rights of other individuals or organizations to engage in expressive activities.

(c) **Outdoor areas of campus are considered traditional public forums for individuals, organizations, and guest speakers. A public institution of higher education may create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression** and that are narrowly tailored to a significant institutional interest. Restrictions must be clear and published and must provide for ample alternative means of expression.

(d) **A public institution of higher education may not designate any area of campus as a free-speech zone or otherwise create policies restricting expressive activities** to a particular outdoor area of campus, except as provided in paragraph (c).

F.S. 1004.097(3)(f): A Florida College System institution or a state university **may not shield students, faculty, or staff from expressive activities.**

F.S. 1004.097(3)(g): "...[A] student may record video or audio of class lectures for their own personal educational use, in connection with a complaint to the public institution of higher education where the recording was made, or as evidence in, or in preparation for, a criminal or civil proceeding. A recorded lecture may not be published without the consent of the lecturer."

F.S. 1004.097(4) CAUSE OF ACTION.—A person injured by a violation of this section may bring an action:

- (a) **Against a public institution of higher education based on the violation of the individual's expressive rights** in a court of competent jurisdiction to obtain declaratory and injunctive relief and **may be entitled to damages** plus court costs and reasonable attorney fees, **which may only be paid from nonstate funds.**
- (b) **Against a person who has published video or audio recorded in a classroom in violation of paragraph (3)(g)** in a court of competent jurisdiction to obtain declaratory and injunctive relief and **may be entitled to damages** plus court costs and reasonable attorney fees, with the total recovery not to exceed \$200,000.

Background on the “Recording Professors Law”

FL legislature relied on several national and university-level surveys conducted since 2015, which indicated most students were **generally uncomfortable expressing their political views with faculty, staff, or other students, so they would self-censor**

In 2020, according to the Foundation for Individual Rights in Education (FIRE) only three out of the eleven state universities in Florida that FIRE evaluated had policies that did not inhibit free expression.

Another national survey revealed:

- 22 percent of students would have felt very uncomfortable publicly disagreeing with a professor about a controversial topic;
- 29 percent of students felt that the college administration did not make it clear that free speech was protected on campus;
- 60 percent of students had felt they could not express their opinion on a subject because of how students, a professor, or the administration would respond; and
- **60 percent of students could recall at least one time during their college experience when they did not share their perspective for fear of how others would respond. Students who identified as Conservative were more likely to report a prior self-censorship incident (72 percent for Conservative students, 55 percent for Liberal students).**


The Commission on Colleges of the Southern Association of Colleges and Schools requires member institutions to preserve intellectual and academic freedom and asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of knowledge. Academic freedom respects the dignity and rights of others while fostering intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”

F.S. 1004.97 Campus Free Expression Act amended to add “Recording Professors” section, definitions, revise available remedies to include damages, and due process for student government officers


1001.03 Specific Powers of the State Board of Education

(19)(a)(1) “Intellectual freedom and viewpoint diversity” means the exposure of students, faculty, and staff to, and the encouragement of their exploration of, a variety of ideological and political perspectives.

(19)(2)(b) Intellectual Freedom and Viewpoint Diversity Assessment.
The State Board of Education shall require each Florida College System institution to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The State Board of Education shall select or create an objective, nonpartisan, and statistically valid survey to be used by each institution which considers the extent to which competing ideas and perspectives are presented and members of the college community, including students, faculty, and staff, feel free to express their beliefs and viewpoints on campus and in the classroom. The State Board of Education shall annually compile and publish the assessments by September 1 of each year, beginning on September 1, 2022. The State Board of Education may adopt rules to implement this paragraph.



FLDOE Policy Interpretation of F.S.
1003.42(2) (aka Banning Critical
Race Theory from K-12 Public
Schools)



F.S. 1003.42(2) Required Instructional Content

Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, **shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy**, following the prescribed courses of study, and employing approved methods of instruction, the following:

- (a) **The history and content of the Declaration of Independence**, including national sovereignty, natural law, self-evident truth, **equality of all persons**, limited government, popular sovereignty, and **inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government**.
- (b) **The history, meaning, significance, and effect of the provisions of the Constitution of the United States** and amendments thereto, with emphasis on each of the 10 amendments that make up the Bill of Rights and how the constitution provides the structure of our government.

F.S. 1003.42(2) Required Instructional Content

- (c) The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.
- (d) Flag education, including proper flag display and flag salute.
- (e) The elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts.
- (f) **The history of the United States, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present. American history shall be viewed as factual, not as constructed,** shall be viewed as knowable, teachable, and testable, and shall be defined as the creation of a new nation based largely on the universal principles stated in the Declaration of Independence.

FLDOE New Policy Interpretation of F.S. 1003.42(2) (The CRT Ban)

Instruction on the required topics must be factual and objective, and may not suppress or distort significant historical events, such as the Holocaust, slavery, the Civil War and Reconstruction, the civil rights movement and the contributions of women, African American and Hispanic people to our country, as already provided in Section 1003.42(2). Examples of theories that distort historical events and are inconsistent with State Board approved standards include the denial or minimization of the Holocaust, and the teaching of Critical Race Theory, meaning the theory that racism [is not merely the product of prejudice, but that racism] is embedded in American society [and its legal systems] in order to uphold the supremacy of white persons. Instruction may not utilize material from the 1619 Project and may not define American history as something other than the creation of a new nation based largely on universal principles stated in the Declaration of Independence.

FLDOE New Policy Interpretation of F.S. 1003.42(2) (The CRT Ban)

Efficient and faithful teaching further means that any discussion is appropriate for the age and maturity level of the students, and teachers serve as facilitators for student discussion and do not share their personal views or attempt to indoctrinate or persuade students to a particular point of view that is inconsistent with the Next Generation Sunshine State Standards and the Benchmarks for Excellent Student Thinking (B.E.S.T.) Standards. F.S. 1003.42(2):

(g) The history of the Holocaust (1933-1945), the systematic, planned annihilation of European Jews and other groups by Nazi Germany, a watershed event in the history of humanity, to be taught in a manner that leads to an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions, including the policy, definition, and historical and current examples of anti-Semitism, as described in s. 1000.05(7), and the prevention of anti-Semitism.

(h) The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society. Instructional materials shall include the contributions of African Americans to American society.

What is Critical Race Theory?

- A movement led by several legal scholars and their writings in the late 1970s and 1980s (e.g., Bell, Crenshaw, Matsuda, Delgado) to **acknowledge and address the ongoing oppression of racial and ethnic minorities**
- Draws from
 - American pioneers in the struggle for ethnic and racial justice: Frederick Douglass, W. E. B. Du Bois, and Cesar Chavez
 - European philosophers and theorists Karl Marx, Herbert Marcuse and others from the Frankfurt School of Social Theory and Critical Philosophy Movement “critical theory” (i.e., critical legal studies, critical pedagogy)
- **Primary tenet - Race and racism are fundamentally ingrained in legal, political, economic, and social structures, as well as the historical consciousness of this country’s ideology and fundamental conceptions about knowledge, citizenship, rights, law, property, etc.**
- **Used in research (analytically) to consciously foreground race, racism, and power in the study of societal problems**, as well as to expose and eradicate white dominance, ideologies, and policies deeply embedded in the foundation of American institutions and structures

40-year Growth of Critical Race Theory (CRT)

- Expanded into various disciplines: Education, Sociology, Psychology, Cultural studies, Political Science, Philosophy, Communications, etc.
- Branched out into other equality movements:
 - Blacks/Latinos (LatCrit), Asian Americans (AsianCrit), Native Americans (TribalCrit), critical race feminism (FemCrit), gay and lesbian communities (Queer-Crit), (dis)abled persons (DisCrit), Jewish and Hebrew people (HebCrit), all around the world
 - Each branch draws attention to issues of relevance: immigration and nativism, sovereignty rights, (dis)ability, class, language, gender, gender identity, sexual orientation discrimination, and religion

CRT Themes

Six unifying themes that define the movement:

- CRT recognizes that racism is endemic to American life;
- CRT expresses skepticism toward dominant legal claims of neutrality, objectivity, colorblindness, and meritocracy;**
- CRT challenges ahistoricism and insists on a contextual/historical analysis of the law. CRT presumes that racism has contributed to all contemporary manifestations of group advantage and disadvantage;**
- CRT insists on recognition of the experiential knowledge of people of color and our communities of origin in analyzing law and society;**
- CRT is interdisciplinary; and
- CRT works toward the end of eliminating racial oppression as part of the broader goal of ending all forms of oppression.**

WHAT IS ALL THE FUSS COMING FROM: WHY CRT, WHY NOW?

Principles-Themes-Tenets

- Social Justice Orientation (What is ethical/could be more - equitable outcomes).
- Involves historical thinking/knowledge (vs. ahistorical analyses).
- Pays attention to the narratives, points of view, experience from those oft neglected or rejected from positions of power (status, wealth, role).
- Demographic shifts may mean battle for power - U.S. may be majority racial and ethnic minorities within the next 10 years)

Discovery Institute (Christopher Rufo): CRT as an “*existential threat to the United States*”

- **Sept. 2, 2020:** Rufo w/ Tucker Carlson claimed: CRT is a “radical left ideology of judging people based on their identity”. Called on President Trump to abolish CRT trainings.
- **Mid-September, 2020:** “I provided my research to the White House and the president’s team crafted a brilliant executive order that extended the **fight against critical race theory** to federal agencies, the military, universities, and corporations,” ---Rufo email to The Wall Street Journal. [**emphasis in bold**]
- **Sept. 28, 2020:** Pres. Trump’s Executive Order on Diversity and Racial Equity Trainings –

<https://www.federalregister.gov/documents/2020/09/28/2020-21534/combating-race-and-sex-stereotyping>

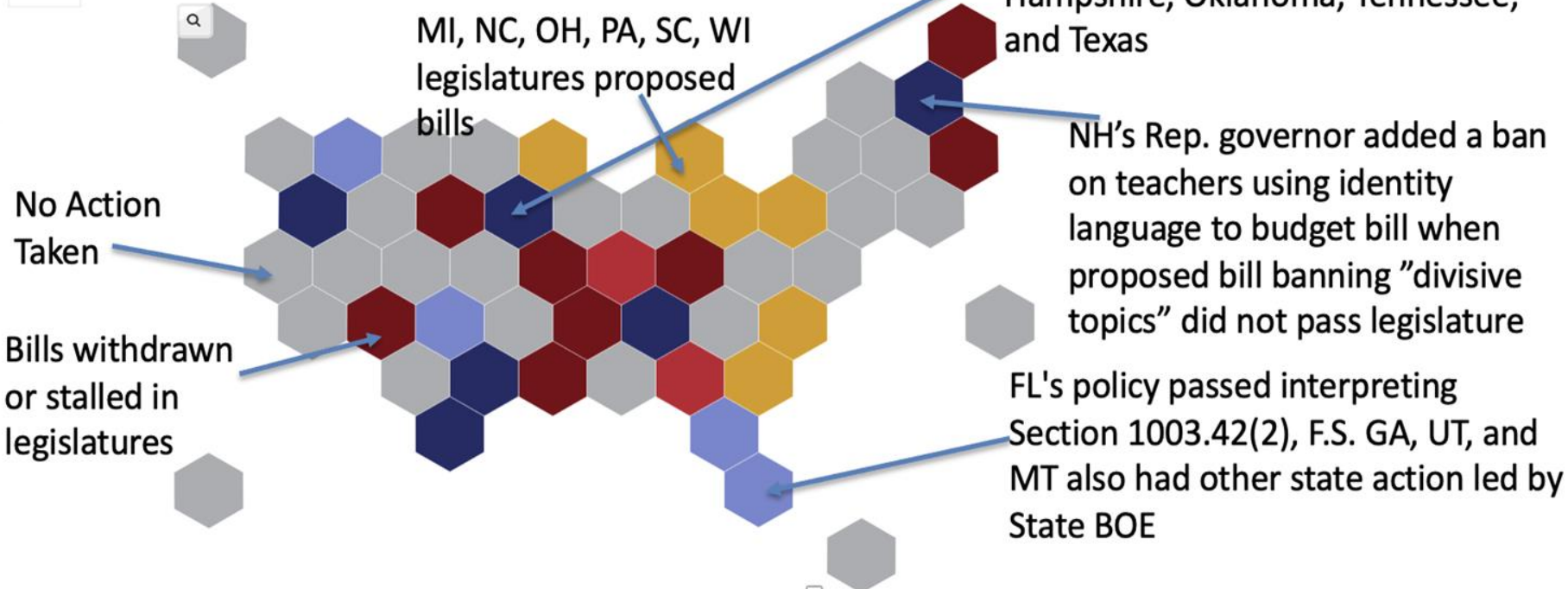
Biden Rescinds Trump's EO; Prioritizes Racial/Ethnic Diversity for American History and Civics Education Programs

Proposed Priority 1: *Projects That Incorporate Racially, Ethnically, Culturally, and Linguistically Diverse Perspectives into Teaching and Learning.*

- (a) Take into account systemic marginalization, biases, inequities, and discriminatory policy and practice in American history;
- (b) Incorporate racially, ethnically, culturally, and linguistically diverse perspectives and perspectives on the experience of individuals with disabilities;
- (c) Encourage students to critically analyze the diverse perspectives of historical and contemporary media and its impacts;
- (d) Support the creation of learning environments that validate and reflect the diversity, identities, and experiences of all students; and
- (e) Contribute to inclusive, supportive, and identity-safe learning environments.



- Bill has been pre-filed for next legislative session
- No state-level action or bill introduced
- Bill has been withdrawn or stalled indefinitely or legislative session has ended with no further action on the measure
- Other state-level action
- Bill has been signed into law
- Bill has been proposed or is moving through state legislature



MI, NC, OH, PA, SC, WI legislatures proposed bills


No Action Taken

Bills withdrawn or stalled in legislatures


Bills passed in Iowa, Idaho, New Hampshire, Oklahoma, Tennessee, and Texas

NH's Rep. governor added a ban on teachers using identity language to budget bill when proposed bill banning "divisive topics" did not pass legislature

FL's policy passed interpreting Section 1003.42(2), F.S. GA, UT, and MT also had other state action led by State BOE



FLDOE Addendum to Mathematics
Instructional Materials Bid
Specifications - Publishers and school
districts are NOT to incorporate social
emotional learning and culturally
responsive teaching



Addendum to Mathematics Instructional Materials Bid Specifications

On June 9, 2021, **FLDOE sends a memo to mathematics publishers, the day before the FLDOE banned CRT from K-12 public schools**, with an addendum to bid specifications

Addendum

The state's instructional materials bid specifications plainly articulate that materials must be accurate and aligned to the B.E.S.T. Standards. **In an effort to make sure Florida students have the highest quality instructional materials, we are advising publishers and school districts to not incorporate unsolicited strategies, such as social emotional learning and culturally responsive teaching.**

These strategies are not called for in the specifications because they are not aligned to the B.E.S.T. Standards and, therefore, should not be in your instructional materials.

(Equity Pedagogy)	Pedagogy (influences attitudes and dispositions in classroom)	Teaching (influences competencies and methods)	Pedagogy (furthers and supports the fluidity of asset-based pedagogies)	student at his/her cultural and emotional turf)
Includes diverse racial, ethnic, and cultural groups in curriculum	Academic Achievement	Social and Academic Empowerment	Focuses on Practices and Knowledges of Communities of Color	Makes Local Experiences of Students Visible
Focuses on content integration, knowledge construction and production	Cultural Competence	Multidimensionality	Fosters Linguistic and Cultural Flexibility	Creates Contexts and Role Reversal where Students are Experts and Teachers are Learners
Allows students to acquire, interrogate, and produce knowledge for use in societal change	Sociopolitical Consciousness	Cultural Validation	Resists Static, Unidirectional Notions of Culture and Race; Considers Shifts and Evolution	Allows Youth to Reveal where Teaching and Learning Practices Wounded Them (academically, psychologically and emotionally)
Rooted in examination of power relationships, school culture and social structure	Links principles of learning with deep understanding of (and appreciation for) culture	Social, Emotional, and Political Comprehensiveness	Seriously Contends with the Problematic and Progressive Aspects of Communities of Color	Seeing Students as Influenced by, not Equal to, Their Cultural Identity
Teachers need to practice reflective self-analysis		School and Societal Transformation	Focuses on evolving nature of youth identity and culture while also pointing out how youth culture can also reproduce systemic inequalities	Focus on Teaching and Learning that is Successful in the Community and Outside of School
Student focused		Emancipation or liberation from Oppression		Revolves around 5C's- Cogenerative dialogues, coteaching, cosmopolitanism, context and

Settings

The Framework for Systemic SEL has widespread applications. CASEL's competencies are used world-wide in preschool through high school settings, both in school and out-of-school. Based on learnings and field-testing in districts across the country, CASEL has identified four focus areas of systemic implementation (see District and School Theories of Action below). CASEL recommends coordinating strategies across classrooms, schools, homes, and communities and provides free, targeted resources for each setting.

How?


District and School Theories of Action
Build Foundational Support and Plan
Strengthen adult SEL competencies and capacity
Promote SEL for Students
Practice Continuous Improvement

What and where?




Why?

Student Outcomes	
Short-Term	<ul style="list-style-type: none">•Improved attitudes about self, others, and tasks•Perceived classroom and school climate
Intermediate	<ul style="list-style-type: none">•Positive social behaviors and relationships•Academic success•Fewer conduct problems•Less emotional distress•Less drug use
Long-Term	<ul style="list-style-type: none">•High school graduation; college/career readiness•Safe sexual behaviors, healthy relationships•Improved mental health•Reduced criminal behavior•Engaged citizenship



Legislative Proposal to Eliminate the
Florida State Assessment (FSA) and
Create the Florida's Assessment of
Student Thinking (F.A.S.T.)



UNIFIED PROGRESS MONITORING (PM) PROVIDES CONSTANT FEEDBACK TO DRIVE IMPROVED STUDENT OUTCOMES

#1

Eliminates the FSA.

#2

Protects Florida's #1 in the nation school accountability, that has lifted Florida to the top 3 in the nation and has done more to protect low-income families, African American and Hispanic students, and children with unique abilities.

#3

Utilizing the progress monitoring to empower educators, parents, and most importantly students to a level never seen before.





- Require FSA
- Voluntary variety of PMs
- Last accountability pre-transition

2021-2022



- Eliminate FSA
- Utilizes a Unified PM
- Pause accountability
- New baseline for accountability

2022-2023



- Utilizes a Unified PM
- Establish new cut scores
- Return to accountability

2023-2024



NEW

PROGRESS MONITORING

- Hours rather than days to administer
- 3 opportunities to check-in on growth
- 75% less testing time = more time for learning
- Informs teachers so they can better help students
- Based on new B.E.S.T. standards
- Customizable, unique to each student
- Timely data during the school year
- Gives schools 2 opportunities to improve

75% LESS TIME TESTING,
therefore increased time for
LEARNING.



Thank you!