

# KNOW YOUR RIGHTS



**#TEACHTRUTH**

# Table of Contents

[What are these new state laws and what do they do?](#) **4**

[Can I still teach the truth about U.S. history and current American society?](#) **6**

[What if my students ask about current events that raise issues of structural or systemic racism?](#) **7**

[What if there is a racial incident in the school?](#) **7**

[How can I continue to foster an inclusive environment at my school? /](#)

[Can I display a Black Lives Matter flag, etc. in my classroom?](#) **7**

[What happens if a parent, student, or member of the community accuses me of violating the law?](#) **8**

[How can I support my students / oppose these laws outside of school?](#) **8**

[How can I get more involved in opposing these laws?](#) **8**

[Where can I go for more information on this issue?](#) **8**



# Know Your Rights



## WHAT EDUCATORS SHOULD KNOW ABOUT TEXAS'S NEW STATE LAW ON INSTRUCTING STUDENTS ABOUT OUR COUNTRY'S HISTORY

Law and policy makers across our country, in yet another attempt to divide Americans along partisan and racial lines, are pushing legislation that seeks to stifle discussions in public school classrooms on racism, sexism and inequity. Despite the rhetoric surrounding them, none of the laws enacted to date prohibit teaching the full sweep of U.S. history, including teaching about nearly 250 years of slavery, the Civil War, the Reconstruction period, or the violent white supremacy that brought Reconstruction to an end and has persisted in one or another form ever since. Nor should these laws and policies undermine efforts to ensure that all students, including historically marginalized and excluded students, feel seen in the classroom and benefit from culturally-inclusive curricula and pedagogical tools that teach the truth about our country.

In Texas, these efforts resulted in two new laws, enacted by the Texas state legislature, which require the State Board of Education to review and revise the State's social studies curriculum. The following answers some FAQ's about the new laws and provides links to additional resources as well.

*These efforts to whitewash our history deny our growing diversity, ignore our festering inequities and threaten to cripple our students' development of the critical thinking skills that are so important to their future success and their ability to create a more just society.*

**- OVIDIA MOLINA, TEXAS STATE TEACHERS ASSOCIATION PRESIDENT**

*These dangerous attempts to stoke fears and rewrite history not only diminish the injustices experienced by generations of Americans, they prevent educators from challenging our students to achieve a more equitable future.*

**- BECKY PRINGLE, PRESIDENT OF THE NATIONAL EDUCATION ASSOCIATION**





# Know Your Rights

## Q&A

### What are these new state laws and what do they do?

- o The Texas State Legislature has passed, and Governor Abbott, has signed two different new laws:
  - **House Bill 3979** (signed into law on June 16, 2021 and effective on September 1, 2021). Full text [here](#).
    - The law adds additional provisions to the section of Texas’s Education Code regarding required curriculum.
  - **Senate Bill 3** (Signed into law on September 17, 2021 and effective on December 2, 2021). Full text [here](#).
    - The law repeals portions of House Bill 3979 and amends Texas’s Education Code regarding staff training and development, parental access to teaching materials, and social studies curriculum.
- o House Bill 3979, which is effective now:
  - Prohibits school districts, administrators, and educators

from requiring or making part of any course the concept that:

- An individual, by virtue of the individual’s race or sex, is inherently racist, sexist, or oppressive whether consciously or unconsciously or bears responsibility for actions committed in the past by other members of the same race or sex;
- An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual’s race or sex;
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
- The beginning of slavery constituted the true founding of the United States;
- That slavery and racism are anything other than betrayals of the authentic founding principles of the

United States;

- That one race or sex is inherently superior to another; individuals should be discriminated against because of their race; or that
- That meritocracy and traits such as a hard work ethic are racist or sexist concepts.
- The law also prohibits school districts, administrators, and educators from requiring students to understand The 1619 Project.
- The law also prohibits school districts and educators from requiring, making part of a course, or awarding a grade or credit to students for their political activism or social or public policy advocacy, including for internships involving such advocacy.
- The law prohibits school districts from requiring that educators engage in training, orientation, or therapy that presents “any form of race or



# Know Your Rights

- sex stereotyping or blame on the basis of race or sex.”
- The law further bans school districts from requiring educators to discuss “widely debated and currently controversial” current events, public policy or social issues.
- When educators choose to discuss a “widely debated and currently controversial” topic, the law requires them to “explore the topic from diverse and contending perspectives without giving deference to any one perspective.”
- The law directs the State Board of Education to adopt a social studies curriculum by December 31, 2022 that develops each student’s civic knowledge of several subjects, including the history of Native Americans, the civil rights movement, women’s suffrage, labor and Chicano movements as well as several specific leaders in those movements (*NOTE – this provision was repealed by the subsequent enactment of Senate Bill 3*).
- o Senate Bill 3, which will be effective as of December 17, 2021:
  - Repeals the specific subjects that must be included in the revised social studies curriculum, but clarifies that the repeal does not preclude the State Board of Education from including them in the final curriculum. Replaces those specifics with more general principles that the curriculum must meet, including that students understand the structure of American government, the history of civic engagement and its importance, and a commitment to the United States and its form of government.
  - Specifies that this curriculum revision is to begin in 2021, for completion by the 2022-2023 school year. Until that review occurs, [Texas’s existing curriculum standards, known as the Texas Essential Knowledge and Skills \(TEKS\)](#), remain unchanged.
- The law includes almost all of the same prohibition as House Bill 3979 against teaching the concepts and topics noted above and continues to prohibit requiring an understanding of The 1619 Project.
- But the new law repeals the specific prohibitions against teaching that an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual’s race or sex, or that members of one race or sex cannot and should not attempt to treat others without respect to race or sex.
- Under the law, school districts must provide students’ parents with login credentials to its learning management system or online learning portal so that parents have access to educators’ instructional materials.



# Know Your Rights

- The law requires the politically-appointed Commissioner of Education to develop and provide civics training programs to educators, including conducting classroom discussions consistent with the new law. Each civics training program must be reviewed and approved by the State Board of Education, and at least one educator from each school must attend.
- The law also requires that if an educator chooses to discuss “a widely debated and currently controversial issue of public policy or social affairs,” the educator must “explore that topic objectively and in a manner free from political bias.”
- Like House Bill 3979, the law prohibits school districts and educators from making part of a course or awarding a grade or course credit for a student’s lobbying, policy advocacy, or political activity, activism work, or volunteer service, but clarifies that internships and

activities that do not directly involve such advocacy are permitted. Activities directing students to communicate with elected officials, for example, are permitted so long as the teacher does not influence the content of the communication.

## Can I still teach the truth about U.S. history and current American society?

- o Yes. Neither law alters Texas’s [Essential Knowledge and Skills for Social Studies](#), which require educators to teach students about American history, including various political, economic, religious, and social events and issues, based on the students’ grade level: [Elementary](#), [Middle School](#), [High School](#).
- o Also, under House Bill 3979, the State’s social studies curriculum must include “the history of white supremacy, including but not limited to the institution of slavery, the eugenics movement, and the Ku Klux Klan, and the ways in which it is morally wrong.” In other words, the law does not

prohibit classroom lessons on race, anti-Black racism, white supremacy, slavery, Jim Crow laws, etc.

- o At the same time, both laws ban educators from requiring students to understand The 1619 Project. This provision is vague as to what conduct is prohibited. However, neither law explicitly prohibits educators from exposing students to The 1619 Project or offering The 1619 Project as an optional reading. Nevertheless, if you plan to teach using the [essays](#) published in *The New York Times Magazine* as part of the original project, [The 1619 Project Curriculum](#), created by *The New York Times* and the Pulitzer Center, [The 1619 Project Podcast](#), or the new book, [The 1619 Project: A New Origin Story](#), you should contact your union representative about how to proceed. If you proceed with such instruction without the approval of your school principal or administrator, you could expose yourself to discipline.
- o Under both laws, educators cannot teach that “slavery and racism



# Know Your Rights

are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.” However, neither law provides further guidance regarding this prohibition in the context of the State’s [Essential Knowledge and Skills for Social Studies](#). Classroom lessons aligned with those curriculum standards remain defensible, even if they teach students truthful information about the long history of slavery and racism in the U.S.

- o As always, you should never teach that any race or sex is inherently superior to another race or sex.

## What if my students ask about current events that raise issues of structural or systemic racism?

- o As an educator, you know how to handle challenging questions in professional and age-appropriate ways. When discussing these topics, Senate Bill 3 requires you to “explore that topic objectively and in a manner free from political bias.”

- o If you are planning a classroom lesson about a current event or controversial topic that also involves discussion of race or racism, be sure your curriculum is age-appropriate and aligned with state standards and past practice. You may also consider notifying or getting approval from your school principal or administrator if a particular instructional approach is likely to be controversial in your classroom or the community.

## What if there is a racial incident in the school?

- o Neither law relieves school districts of their obligations under federal and state law to enforce anti-bullying, anti-harassment, and nondiscrimination policies in schools. Your school district likely has a policy in place to address race-based incidents. Provided you are responding to the incident in a way that is in line with that policy, your conduct should be protected.

## How can I continue to foster an inclusive environment at my school? / Can I display a Black Lives Matter flag, etc. in my classroom?

- o We know that inclusive curriculum and pedagogical approaches work. They engage students and improve student retention and achievement. Talk to your school principal or administrator about the importance of making sure all students feel seen and supported in your classroom and school, and the ways your school can make sure this happens.
- o If you plan on posting a symbol of inclusion, such as a Black Lives Matter, LGBTQIA+ Pride, or DREAMers flag or poster, and have not seen other educators posting similar items in their classroom, make sure to tell your school principal or administrator in advance so you can address any concerns they may have. If your school principal or another school administrator bars you from posting such inclusive signage, consult your union representative about how best to proceed.



# Know Your Rights

## What happens if a parent, student, or member of the community accuses me of violating the law?

- o The new laws do “not create a private cause of action against a teacher, administrator, or other employee of a school district...” However, a complaint to the school district or Texas Education Agency may prompt an investigation and/or disciplinary procedures action against you for failure to comply with state and federal laws and school district policies.
- o If your school district or the Texas Education Agency takes action against you for an alleged violation of the new laws or school district policies, and you are represented by a union, contact your union for assistance. You can find your local union’s contact information on the Texas State Teachers Association [website](#).
- o Your union representative can assist you in determining what rights you have under Texas law,

school district board policies and also under your specific type of educator contract (i.e., continuing, term, or probationary). No matter what type of contract you hold, your school district cannot discipline you or terminate or non-renew your contract for an unlawful reason, such as your race or sex, or as punishment because you properly exercised your First Amendment rights outside of school (as described below).

## How can I support my students / oppose these laws outside of school?

- o Always remember that you have the greatest protection when you speak up during non-work time and outside of school – for example, by speaking at a school board meeting, church, or other local community group meeting, attending a rally, writing a letter to the editor, or posting on Facebook or other social media.
- o You can join your students at these off-school events, but you

should not use your authority as their teacher to urge students to participate.

## How can I get more involved in opposing these laws?

- o [Sign the NEA EdJustice Honesty in Education pledge](#) to show your support for teaching the truth and stay up to date on the education justice movement.

## Where can I go for more information on this issue?

- o [NEA’s Honesty in Education resource page](#) and [NEA’s Know Your Rights page](#)
- o [African American Policy Forum #TruthBeTold Campaign Partnership for the Future of Learning’s messaging guide: Truth in Our Classrooms Bridges Divides](#)
- o [The Leadership Conference’s Toolkit for Local Advocates: Teaching Diverse and Inclusive Curricula Materials and Defending Diversity, Equity, and Inclusion](#)

**THIS RESOURCE WAS COLLABORATIVELY DEVELOPED BY THE NATIONAL EDUCATION ASSOCIATION AND AFRICAN AMERICAN POLICY FORUM, WITH ADDITIONAL CONTRIBUTIONS FROM AAPF’S #TRUTHBETOLD LITIGATION STRATEGY & LEGAL SUPPORT WORKING GROUP, INCLUDING LATCRIT, INC. AND THE NATIONAL YOUTH LAW CENTER.**





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