

November 9, 2021

Dear Chairpersons Weisz and Lee and Members of the Joint Technical Corrections Committee:

I write today on behalf of the ACLU of North Dakota to express our strong opposition to HB 1508, legislation that purports to ban “instruction relation to critical race theory” in public schools. If implemented, this bill would undoubtedly censor discussions about race in schools, severely chill the speech of school employees, and deny young people the right to receive an equitable education.

We urge you to vote **do not pass** on HB 1508.

Using legislation like HB 1508 to prevent discussion about race and racism is an affront to free speech, a value and a right that should be held in the highest regard. The ability to discuss and debate ideas, even those that some find uncomfortable, is a crucial part of our democracy. The First Amendment protects the right to share ideas, including the right of listeners to receive information and knowledge. In K-12 education, bills like HB 1508 overstep the state government’s legitimate authority by imposing curriculum restrictions that should remain with local districts and imposing classroom censorship. Instead of encouraging learning, this bill will effectively gag educators and students alike from talking about issues of the most profound national and personal importance—such as the impact of systemic racism in our society. Simply put, this is a blatant attempt to suppress speech about race that some may disfavor.

Per its terms, this bill would prohibit any curriculum or discussion of critical race theory, which it defines as “the theory that racism is not merely the product of individual bias or prejudice, but that racism is systemically embedded in American society and the American legal system to facilitate racial inequality.” This is clear and unambiguous censorship. Additionally, the bill would undermine free speech in even more insidious ways. By clearly targeting discussions relating to critical race theory—a theory which many struggle to understand as it is a high-level academic framework which emerged amongst legal scholars in the 1970s—it is natural that many will interpret a ban on “critical race theory” to mean a ban on discussing or raising issues of race in the classroom at all. This ambiguity will inevitably lead to a chilling effect on speech, which will create an environment in which teachers across North Dakota fear mentioning race in any context. In an environment such as this, how is a history teacher supposed to discuss slavery, the civil rights era, or teach high school students about the history of redlining,¹ an explicitly systemic policy initiative that purposefully segregated housing? The intentional creation of an environment such as this via HB 1508 would deeply undermine the ability of teachers to teach and the right of students to learn.

Further, banning conversations about race in schools risks creating or maintaining educational environments that are harmful to students of color. Every student deserves access to culturally relevant teaching, equitable resources, and a safe learning environment in which they can engage in open and honest dialogue about America’s history. All students benefit from the opportunity to learn and talk about the history and culture of marginalized communities. In fact, studies have shown that equitable education can increase greater cultural understanding that builds empathy,

¹ <https://www.nytimes.com/2021/08/17/realestate/what-is-redlining.html>



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fosters greater connection among the entire school community, and can actually improve academic performance.

Additionally, researchers and educators recognize² that a school-wide approach involving education and training is necessary to combat harassment and bullying on the basis of race and gender. Laws banning conversations about race jeopardize this important work. Further, research has demonstrated that general anti-bullying policies and programs are not nearly as effective at combating bias-based bullying as policies and programs that explicitly name protected characteristics such as race.

Classroom censorship has no place in North Dakota. We urge you to protect free speech, robust discussion, and the right of students to learn in an equitable environment. Please vote do not pass on HB 1508.



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Sincerely,

A handwritten signature in black ink that reads "Skarin".

Libby Skarin
Campaigns Director
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² <https://www.apa.org/advocacy/interpersonal-violence/bullying-school-climate>