



Manufacturing Backlash

Right-Wing Think Tanks and Legislative Attacks on Higher Education, 2021–2023

Isaac Kamola, Director, Center for the Defense of Academic Freedom

American Association of University Professors

ikamola@aaup.org

May 2024

(c) 2024 American Association of University Professors

Contents

Introduction	3
Goals of this White Paper	6
Overview of the Chapters	8
Acknowledgments	11
Part 1: The Context	13
Chapter 1: From Black Lives Matter to Executive Orders	14
Executive Order 13958	16
Executive Order 13950	19
Chapter 2: Culture War, Think Tanks, and the Dark Money that Funds Them	25
National Think Tanks	26
Center for Renewing America and the Conservative Partnership Institute	
Manhattan Institute for Policy Research	
American Legislative Exchange Council (ALEC)	
Heritage Foundation	
State-Level Think Tanks	38
James G. Martin Center for Academic Renewal	
Texas Public Policy Foundation (TPPF)	
Idaho Freedom Foundation (IFF)	
Cultural Conservative Think Tanks	43
Claremont Institute (CI)	
Ethics and Public Policy Center (EPPC)	
Higher Education Governance Think Tanks	47
American Council on Trustees and Alumni (ACTA)	
National Association of Scholars (NAS) and the Civics Alliance	
The State Policy Network (SPN)	51
Part 2: The Legislation	63
Overview	64
Chapter 3: Academic Gag Orders	68
2021 Gag Orders: The Roll Out	70
2022 Gag Orders: The Intensification	73
2023 Gag Orders: Doubling Down	80
Summary	82

Chapter 4: Bills Attacking Diversity, Equity, and Inclusion (DEI)	87
Anti-DEI Bills in Texas	89
Anti-DEI Bills in Florida	93
Summary	97
Chapter 5: Bills Weakening Tenure	101
Post-Tenure Review in Florida	103
Texas and North Dakota: Bullets Dodged?	105
Chapter 6: Bills Weakening Accreditation	109
Accreditation in Florida	110
Texas and North Carolina	112
Chapter 7: Bills Undermining Academic Governance	116
Surveys and Viewpoint Diversity	117
Academic Programs and Centers	120
Breaches of Autonomy	123
Conclusion	124
Part 3: Appendices	128
Appendix 1: 2021–2023 Bills Targeting Higher Education by Type	129
Appendix 2: Top 25 Donors Funding the Think Tanks Described in Chapter 2 (2020–2022)	135
Appendix 3: Side-by-Side Comparison of Executive Order 13950, CRA and Heritage Foundation Model Bills, and Florida’s HB 7	137
Appendix 4: Academic Gag Orders Signed into Law	142
Appendix 5: Restrictions on DEI Signed into Law	144
Appendix 6: Bills Weakening Tenure Signed into Law	146
Appendix 7: Bills Undermining Accreditation Signed into Law	147

Introduction

Today higher education is under attack. Since 2021 we have witnessed what one scholar correctly called an “unusually brazen series of challenges to academic freedom,” unleashed by conservative activists and a “national-level political machine” closely aligned with the Republican Party (Brint 2023). Since 2021 more than one hundred and fifty bills have been introduced in state legislatures seeking to actively undermine academic freedom and university governance. This includes nearly one hundred academic gag orders seeking to ban the teaching of “critical race theory” (CRT) or other so-called “divisive concepts.” Florida Governor Ron DeSantis has appointed partisan activists to the Board of Trustees of New College in Florida, who fired the college president, replaced her with a political ally, denied tenure to five professors deemed outside the institutional mission, and began shuttering academic programs, starting with gender studies (Bartlett 2023; Pettit 2023). Tennessee, North Dakota, Texas, Florida, and North Carolina have passed laws dismantling institutional efforts to increase diversity, equity, and inclusion (DEI) on college campuses. Republican lawmakers in Florida and Texas have sought to weaken tenure protections for faculty, making them more vulnerable to external pressure. Florida and North Carolina have undermined the accreditation process after accreditors raised concerns over the possibility of undue political interference in the states’ university systems. Bills have passed in Florida and Ohio, and action taken by governing boards in North Carolina and elsewhere, to establish academic programs, centers, and whole schools designed to teach conservative content. Taken together, these bills constitute an evolving, interlocking, and intensifying effort by Republican politicians and well-funded think tanks to undermine academic freedom and university autonomy.

This legislation is often understood as an effect of America’s highly polarized politics (see for example: Anderson 2023; Busted 2023; Mintz 2021). Since the election of Donald Trump, the argument goes, American politics have become overly partisan, with polarization affecting university campuses and college classrooms. As this white paper demonstrates, however, this legislation is largely the outgrowth of efforts by right-wing and libertarian think tanks, working closely with Republican politicians, to manufacture a culture-war backlash

against educators and academic institutions. As illustrated in Chapters 1 and 2, a small handful of think tanks have played an outsized role in creating and circulating a narrative portraying faculty, administrators, and whole academic institutions as “un-American,” communist, deviant, groomers, and “woke” extremists. These think tanks produce a self-reinforcing echo chamber of reports, commentary, webinars, op-eds, and other content villainizing faculty and academic institutions. At the same time, many of these same think tanks also develop model legislation and lobby in support of legislation, designed to address this manufactured “crisis.”

As Chapter 1 shows, legislative efforts to weaken academic freedom and university governance are part of a well-organized and well-funded backlash that seeks to roll back the political, social, and cultural gains made in the wake of the Black Lives Matter movement and increased queer and trans visibility. During the summer of 2020 millions of people—across the United States and around the world—poured into the streets. In this context, federal agencies, state and municipal governments, corporations, sports teams, cultural figures, K-12 schools, and universities publicly committed to taking proactive steps to address generational and institutionalized racism. Within the context of the COVID-19 pandemic, and following the murders of George Floyd, Breonna Taylor, Ahmaud Arbery, and other Black Americans, a massive grassroots social movement profoundly shifted the political conversation about race and racism. These protests posed an existential threat to existing political and economic hierarchies. To confront this grassroots movement, wealthy donors—and the think tanks they fund—scrambled to develop a political response. They found success in fomenting a culture war backlash against K-12 and higher education.

In 2020 and 2021, the backlash to the Black Lives Matter movement largely took the form of villainizing “critical race theory” (CRT) and passing educational gag orders. In an explicitly political strategy, explained in Chapter 1, partisan political activists such as Christopher Rufo sought to represent public and academic conversations about race, racism, and structural inequality as divisive and sinister. Their strategy of weaponizing CRT as the “perfect villain” was created and amplified within an echo chamber of well-funded think tanks before landing on Fox News. This politicized misrepresentation of scholarship became the justification for Trump’s September 2020 executive order “Combating Race and Sex Stereotyping,” later

recycled as the “divisive concepts” model legislation introduced in state houses around the country.

In the wake of this executive order, between January and September 2021, fifty-four educational gag orders were introduced in twenty-four states seeking to restrict the teaching of CRT) and other so-called “divisive concepts” (Friedman and Tager 2021). These bills primarily targeted K-12 educators, but many included higher education as well. In its 2021 report, PEN America documented that these bills were already having “tangible consequences for both American education and democracy, both distorting the lens through which the next generation will study American history and society and undermining the hallmarks of liberal education that have set the U.S. system apart from those of authoritarian countries” (Friedman and Tager 2021, 6). The first academic gag orders in 2021 focused primarily on campus trainings, but by 2023 their scope expanded to include classroom content. And, by 2023, 1.3 million public school educators and 100,000 college and university professors had been affected by educational gag orders. Millions of students “have been directly affected—through canceled classes, censored teachers, and decimated school library collections” and the “chilling effect on public education across the country is certainly much larger” (Young, Friedman, and Meehan 2023).

But the culture-war attack on educators did not stop with academic gag orders. Because banning classroom content proved both politically unpopular and prone to legal challenge, the same think tanks evolved the culture war backlash to include diversity, equity, and inclusion (DEI) efforts. After the first wave of gag orders, legislators in states such as Florida, Texas, Tennessee, and North Carolina doubled down, seeking to “kick the legs out from underneath university governance and autonomy, so that the next time the state moves to censor faculty, no one is in position to push back.” During the 2022 and 2023 legislative sessions, Republicans in several states have introduced academic gag orders and bills that undermine institutional commitments to DEI, weaken tenure protections and accreditation processes, and circumvent faculty governance. Within the same context, the culture war backlash has shifted to include not only criticism of efforts to engage questions of race and racism on campus but also a greater focus on LGBTQ+ visibility (Young, Friedman, and Meehan 2023).

By April 2023 this barrage of legislation had become so intense that the American Federation of Teachers (AFT) and the American Association of University Professors (AAUP) issued a joint statement describing a “coordinated attack against public colleges and universities with legislation that would undermine academic freedom, chill classroom speech and impose partisan agendas on public higher education” (AFT and AAUP 2023, 1). And in January 2024 the AAUP described these efforts as “seeking to marginalize, and even criminalize, teaching and research on issues of race and gender,” in a way that “subvert[s] the possibility that, as a site of free inquiry, the university can serve the common good” and, instead, serve to “reinforce racist and white-supremacist interests” (AAUP 2024).¹

Goals of this White Paper

Currently, much of the reporting on the legislative efforts to erode academic freedom and university governance focuses on individual bills or the motivations of Republican politicians. This white paper is unique in three ways. First, it examines the political infrastructure of think tanks and political organizations that play a significant role in manufacturing the culture war aimed at education. The 2020 Black Lives Matter protests inspired colleges and universities to make commitments to racial justice. However, seemingly overnight, this massive grassroots movement was overshadowed by a growing concern over “critical race theory” that seemed to emerge out of nowhere. Equally as suddenly, in 2023 Republican politicians, media personalities, and the general public seemed to develop concerns about the dangers of DEI programs. As this white paper demonstrates, while appearing spontaneous, the supposed public concern about CRT and DEI was actually part of a culture-war backlash manufactured, in large part, within a network of right-wing and libertarian think tanks.

Secondly, this white paper focuses primarily on higher education. While much of the culture war backlash targets K-12 schools and educators—including scrutinizing curricula, textbooks, school libraries, school board meetings, and AP courses—the legislative efforts to weaken academic freedom and university governance often receive less attention. This is likely

¹ In full disclosure, Isaac Kamola served on the committee that wrote this report.

because issues of campus DEI policies, tenure, accreditation, and college curricula are not widely understood by the general population. However, many of the same partisan think tanks that play a significant role in manufacturing a political backlash against K-12 educators have also targeted higher education. The result has been the creation of a public narrative that treats colleges and universities as threatening American values, silencing conservative views, and therefore necessitating legislators and governors to take action to reign in these abuses. While this white paper focuses on higher education, it situates these efforts alongside similar efforts to politicize K-12 education. Doing so demonstrates the common origins of the political attack on K-12 and higher education, and thus reminds college faculty, administrators, staff, and students that efforts to defend academic freedom and university autonomy must also involve supporting our colleagues in K-12 education.

And, finally, with its emphasis on higher education, this white paper is primarily concerned with the effect recent legislation has had on academic freedom and university governance. According to core principles put forward by the AAUP, colleges and universities can only fulfill their social function if they are free from external interference. The 1915 Declaration of Principles on Academic Freedom and Academic Tenure notes that academic institutions exist to “promote inquiry and advance the sum of human knowledge,” “provide general instruction to the students,” and “develop experts for various branches of the public service” (AAUP 2015, 7). These functions are compromised when faculty are subjected to political interference, whether that external pressure comes from legislators, governors, think tanks, or wealthy donors. Rather, academic freedom—including the ability for faculty to determine what gets taught and researched—is central to ensuring that colleges contribute to the public good. Universities should, in other words, offer “[a]n inviolable refuge” from the tyranny [of public opinion]...It should be an intellectual experiment station, where new ideas may germinate and where their fruit, though still distasteful to the community as a whole, may be allowed to ripen until finally, perchance, it may become a part of the accepted intellectual food of the nation or of the world. (AAUP 2015, 9)

In recent years the university has germinated new ideas about race and racism, about gender identity, about American history, and about social equality. In 2020 these new ideas spread

quickly from the campus to the street, and eventually even to the halls of power. Many of these ideas were developed and tested over decades of scholarship, peer review, debate, and critical engagement. They had been widely taken up because faculty, students, and the public found them compelling. However, those wealthy donors and political partisans threatened by these ideas turned to their well-funded think tanks to wage a relentless political attack on scholarship with which they disagreed. Rather than engaging the scholarship on its merit and in good faith, they mischaracterized, polemicized, and weaponized whole fields of academic study. And, in doing so, they depicted faculty as little more than political ideologues posing an existential threat to American identity. An enemy within. The highly partisan think-tank echo chamber has manufactured a narrative that universities are out-of-control, “woke,” and partisan institutions need to be reined in by the legislature and governor.

This is exactly the kind of political interference warned about in the AAUP’s 1915 Declaration. If higher education is to germinate the “intellectual food” that might feed the nation and the world—and not simply reproduce the comfortable narratives about race, gender, and American history preferred by those in power—then universities and society at large must protect academic freedom and institutional autonomy.

Overview of Chapters

This white paper is organized into seven chapters. The first two chapters provide the context in which the recent legislative attacks on academic freedom and institutional autonomy have taken place. This includes providing an overview of the political actors and think tanks that have played a significant role in manufacturing the culture-war backlash against higher education.

Chapters 3 through 7 examine how this backlash has been turned into law during the 2021, 2022, and 2023 legislative sessions, focusing on five different types of bills: academic gag orders, bills attacking campus DEI efforts, legislation weakening tenure and accreditation, and bills that weaken academic governance by mandating “viewpoint diversity” or seeking to proactively shape academic content on college campuses. Taken together, these five chapters provide a detailed overview of the legislation motivated by the backlash think tanks generated against higher education. These chapters demonstrate an interlocking and evolving effort to

weaken academic freedom and autonomy, starting with efforts to regulate campus speech around so-called “divisive concepts” and evolving into efforts to actively mandate content.

Chapter 1 contextualizes the current legislative attack on higher education as a backlash to the 2020 Black Lives Matter protests. It lays out Christopher Rufo’s explicit political strategy of weaponizing CRT, and how this effort was taken up by the Trump Administration. The second half of the chapter examines two executive orders—Executive Order 13958, establishing the 1776 Commission, and Executive Order 13950, “Combating Race and Sex Stereotyping”—as illustrating how a dense network of think tanks helped orchestrate the political reaction to the Black Lives Matter Movement.

The second chapter examines eleven think tanks that have played significant roles in organizing the political backlash against higher education. In differing ways, the think tanks examined here have worked to undermine higher education, written model legislation seeking to undermine academic freedom and university autonomy, and lobbied in favor of such legislation. These institutions include national think tanks, such as the Center for Renewing America, the Manhattan Institute for Policy Research, the American Legislative Exchange Council (ALEC), and the Heritage Foundation. They also include state-level think tanks that pay special attention to higher education, including the James G. Martin Center for Academic Renewal, the Texas Public Policy Foundation, and the Idaho Freedom Foundation. The chapter also includes think tanks that focus on specific political causes that place them at the center of the culture war backlash against higher education, including the American Council on Trustees and Alumni (ACTA), the Claremont Institute, the Ethics and Public Policy Center, and the National Association of Scholars. Chapter 2 also examines how many of these organizations are networked together through the State Policy Network (SPN), a group of libertarian think tanks that advocates pro-corporate policies, including privatizing public education. The chapter also demonstrates the many overlapping conservative and libertarian megadonors who fund this network of think tanks. Examining these organizations, and their funders, helps make better sense of the political strategy at work in targeting higher education.

Part Two takes a close look at the legislation seeking to weaken academic freedom and university autonomy that has been introduced and passed in various states. Chapter 3 examines

academic gag orders banning CRT and so-called “divisive concepts.” This chapter demonstrates that the first academic gag orders introduced in 2021 were heterogeneous as they focused primarily on mandatory campus training. This changed, however, with the arrival of model legislation drawn from the Trump executive order, developed by the Center for Renewing America or the Heritage Foundation. As academic gag orders became more prevalent, they increasingly targeted not only campus training but also expanded in scope to shape classroom content as well.

Chapter 4 demonstrates that by 2023 think tanks moved beyond CRT and “divisive concepts” to increasingly focus on campus DEI initiatives. The think-tank echo chamber increasingly emphasized campus DEI efforts and a new round of model bills sought to outlaw DEI training, the use of diversity statements in hiring and promotion, hiring policies aimed at increasing faculty diversity, and, in some cases, even cut funding to DEI offices and staff entirely. Many of the anti-DEI bills drew specifically upon statutory language enacted previously as academic gag orders.

Chapters 5 and 6 examine bills designed to weaken tenure and the accreditation process. Both tenure and accreditation serve as institutional protections against undue political influence in higher education. Legislation attempting to weaken protections was introduced in several states. Florida and North Carolina passed legislation designed to weaken the oversight power of accrediting agencies. Taken together, these bills represent concerted efforts to make public colleges and universities more susceptible to external political influence.

The final chapter examines bills that weaken academic governance in ways that make it possible for legislators and governors to shape the content of university classrooms. These bills include efforts to enforce “viewpoint diversity,” create campus centers and programs outside of faculty oversight and, in the case of Florida, allow governing boards to unilaterally decide which classes can be counted towards core requirements. These bills represent efforts to remake universities themselves, with Republican politicians exerting greater control over the content taught on university campuses.

Acknowledgments

This white paper is the product of the Center for the Defense of Academic Freedom, housed at the American Association of University Professors (AAUP). The Center was made possible with a generous grant from the Mellon Foundation. I would like to thank those who supported the writing of the white paper, as well as the many readers who provided valuable feedback. This includes Nancy Long, Hans-Joerg Tiede, Edward Swidriski, Aaron Nisenson, and Nancy MacLean. Greg Scholtz provided incredibly detailed comments for the chapter on tenure. Elizabeth Duquette provided exceptional copy editing. And Gwendolyn Bradley was the always essential force ushering this white paper from draft to publication. Thank you.

Ralph Wilson assisted with many elements of the research, including compiling tax information, tracking down lobbying records, and, with Teodora Brnovic, comparing academic gag orders against model legislation. Many thanks, and sincerest gratitude.

Works Cited

- AFT and AAUP. "The Right-Wing Attacks on Higher Education: An Analysis of the State Legislative Landscape," American Association of University Professors (website). April 2023. <https://www.aaup.org/sites/default/files/Higher-Ed-Legislative-Landscape.pdf>.
- AAUP. 2024. Committee on College and University Governance, "Statement on Political Interference in Higher Education," American Association of University Professors (website). January 2024. <https://www.aaup.org/report/statement-political-interference-higher-education>.
- . 2015. "1915 Declaration of Principles on Academic Freedom and Academic Tenure." In American Association of University Professors: Policy Documents and Reports, ed. H.-J. Tiede. Washington, D.C.: American Association of University Professors.
- Anderson, Nick. 2023. "Political Polarization is Sorting Colleges Into Red and Blue Schools." *Washington Post*, April 3, 2023.
- Bartlett, Tom. 2023. "'Shame on You': Over Fiery Protests, Florida's New College Trustees Deny 5 Tenure Bids." *Chronicle of Higher Education*, April 26, 2023.
- Brint, Steven. 2023. "The Political Machine Behind the War on Academic Freedom." *Chronicle of Higher Education*, August 28, 2023.
- Busteed, Brandon. 2023. "Higher Education Is Now The Most Politically Polarized Institution In America, On Par With The Presidency." *Forbes*, July 12, 2023.
- Friedman, Jonathan, and James Tager. 2021. "Educational Gag Orders: Legislative Restrictions on the Freedom to Read, Learn, and Teach." PEN America (website). November 8, 2021. March 28, 2024. <https://pen.org/report/educational-gag-orders/>.
- Mintz, Steven. 2021. "Academic Freedom Under Attack." *Inside Higher Ed*, May 18, 2021.

Pettit, Emma. 2023. "New College of Florida's Board Starts to Dismantle Gender-Studies Program." *Chronicle of Higher Education*, August 10, 2023.

Young, Jeremy C., Jonathan Friedman, and Kasey Meehan, "America's Censored Classrooms 2023," PEN America (website). November 9, 2023. <https://pen.org/report/americas-censored-classrooms-2023>.

Part 1: The Context

Chapter 1: From Black Lives Matter to Executive Orders

In 2013, after the acquittal of George Zimmerman in the killing of Trayvon Martin, grassroots organizer Alicia Garza posted the hashtag #blacklivesmatter on Facebook. In the following decade local organizing built a grassroots movement committed to ending the killing of Black people by police and to “fight[ing] racism through mass mobilization, street demonstrations, and other direct actions” (Taylor 2016, 151).² In 2014 the killing of Michael Brown brought thousands of people onto the streets of Ferguson, Missouri. And during the summer of 2020, amidst a global pandemic and following the murder of George Floyd, Black Lives Matter protests burst onto the political and cultural mainstream. Between May 26 and the end of June, between 15 and 26 million Americans participated in a Black Lives Matter protest, somewhere between 6 and 10 percent of the nation’s adult population (Buchanan et al. 2020).

Demonstrations—approximately 4,700 in total—took place in 40 percent of counties across the country, including many rural communities with large white majorities (Buchanan et al. 2020; Caren et al. 2023, 2). By June 2020, polling revealed that 67 percent of Americans supported the Black Lives Matter movement (Horowitz, Hurst, and Braga 2023). This massive grassroots movement profoundly affected political, social, and cultural life, radically changing public perception and existing discourse about race and racism in the United States. The Black Lives Matter uprising constituted the largest social justice protests since the Civil Rights era, with some scholars calling it America’s third Reconstruction (Joseph 2022; Ruth 2023, 17).

The Black Lives Matter movement also had a profound impact on educational institutions. Schools, teacher unions, and professional associations released statements in support of Black Lives Matter. Protestors called for public K-12 schools and academic institutions to make proactive commitments to address structural racism, and to accurately teach the long history of violence and exclusionary policies aimed at people of color. Within this context, the 1619 Project—published the previous year by the *New York Times Magazine*—gained considerable traction, rethinking America’s founding through the experiences of enslaved Americans and their descendants (Hannah-Jones 2019; Hannah-Jones and Watson 2021). In the

² For the history of the Black Lives Matter movement, see Azevedo et al. 2022; Faust 2019; Garza 2014.

context of the Black Lives Matter protests, many educators started incorporating the 1619 Project, and other texts by Black authors, into school curricula. Teachers and administrators also developed workshops on antiracist pedagogy, established diversity and equity training programs, and institutionalized concerted efforts to create more inclusive curricula. Many college campuses witnessed large protests, demands to rename buildings, and the toppling of Confederate statues. Numerous academic institutions issued statements expressing a commitment to racial justice and promised to reassess their curricula to include discussions of racism and slavery, to prioritize diversity and inclusion in hiring practices, to augment implicit bias training and, at some institutions, to create antiracist and social justice programs and centers (Somashekhar 2015; Zook 2021).

This massive political, social, and cultural change, however, did not go unchallenged. By September 2020 a concerted backlash was in full swing, spearheaded by right-wing think tanks and media outlets that often worked hand-in-hand to develop a strategy of delegitimizing the Black Lives Matter movement by attacking educational institutions. In sharp contrast to the mass grassroots protests and local organizing taking place around the country, right-wing think tanks, funded by some of the most prominent conservative megadonors, played a critical role in marshaling a culture war against education, including the development of waves of model legislation (see Chapter 2).

This chapter provides an overview of the well-funded and networked political infrastructure that launched the culture war backlash by examining two of President Donald Trump's Executive Orders: Executive Order 13958 (establishing the 1776 Commission) and Executive Order 13950 (banning federal trainings that engage in so-called "racial stereotyping"). These orders exemplify how, as early as September 2020, a well-funded think tank infrastructure was already gearing up to criticize educators and academic institutions as part of a political response to the Black Lives Matter protests. For example, Executive Order 13958 brought together political activists and think tank personnel to evaluate scholarly questions, in this case concerning the history of America's founding. The resulting report ignores—even villainizes—existing scholarship and instead draws conclusions that reflect the political preferences of the commission members. Similarly, Trump's executive order "Combating Race

and Sex Stereotyping” was a direct response to the popularity of the 1619 Project and the incorporation of Black voices in K-12 and higher education curricula. This executive order was the work of Christopher Rufo and an ecosystem of well-funded and interconnected conservative think tanks that set out to weaponize “critical race theory” to politically disparage educators and educational institutions. While this order was stymied by legal challenges, and ultimately repealed by President Joseph Biden on his first day in office, it nonetheless became the template for a slew of academic gag orders banning the teaching of so-called “divisive concepts.”

Executive Order 13958

Executive Order 13958 created the 1776 Commission, tasked with issuing a report that reaffirmed America’s founding as a story of divine inspiration, individual freedom, and American exceptionalism. The commission was conceptualized as an explicit response to the 1619 Project as well as the growing popularity of scholarship demonstrating that slavery, Jim Crow, mass incarceration, and other aspects of America’s racist past continued to shape contemporary American society.³ President Trump announced the formation of the President’s Advisory 1776 Commission at the White House’s Conference on American History hosted on September 17, 2020, doubling down on the need to

defend the legacy of America’s founding, the virtue of America’s heroes, and the nobility of the American character. We must clear away the twisted web of lies in our schools and classrooms, and teach our children the magnificent truth about our country. We want our sons and daughters to know that they are the citizens of the most exceptional nation in the history of the world. (Trump 2020c)

Trump then criticized the “propaganda tracts” written by Howard Zinn, the 1619 Project, and Critical Race Theory, which he falsely asserted had “inundated” universities and were being “forced into our children’s schools.” Trump concluded these remarks by announcing his

³ By 2020 a substantial body of scholarly works examining the lasting effects of systemic racism had gained national attention, including books by Alexander 2020; Rothstein 2018; Taylor 2016; Mills 2014; Davis 2011; Gilmore 2007. Likewise, several scholars wrote bestselling books arguing for the need to proactively confront structural racism and white privilege, including Kendi 2019 and DiAngelo 2018. These and many other texts were widely read and discussed during the Black Lives Matter protests in 2020 and made a notable impact on public debates about housing, policing, mass incarceration, and other social issues.

intention to create a commission “to promote patriotic education...[and] encourage our educators to teach our children about the miracle of American history” (Trump 2020c). Two weeks later, with the signing of Executive Order 13958, Trump tasked the 1776 Commission with producing a publicly accessible report that recounts the “core principles of the American founding,” detailing how these founding principles “may be understood to further enjoyment of ‘the blessings of liberty’ and to promote our striving ‘to form a more perfect Union’” (Trump 2020a).

The 1776 Commission included very few academics, and no historians, despite being charged with writing a report to assist educators teaching American history. Instead, the commission included leaders of small Christian schools, Republican politicians, Trump political appointees, and conservative political activists, including the Chair Larry Arnn (Hillsdale College; Heritage Foundation; Claremont Institute), Jerry Davis (College of the Ozarks), Michael Farris (Home School Legal Defense Association; Patrick Henry College), Phil Bryant (Governor of Mississippi), Bob McEwen (Representative, Ohio), Julie Strauss (Trump appointee), John Gibbs (Trump appointee), Gay Hart Gaines (GOPAC), and Ned Ryun (American Majority). The remaining committee members came straight from right-wing think tanks, including Carol Swain (senior fellow at Texas Public Policy Foundation), Matthew Spalding (Hillsdale College; Heritage Foundation; Claremont Institute; Steamboat Institute; Philadelphia Society), Victor Davis Hanson (Hillsdale College; Hoover Institution; Bradley Foundation), Charles Kesler (Claremont Institute), Thomas K. Lindsay (Shimer College; Texas Public Policy Foundation), and Mike Gonzalez (Heritage Foundation) (Kamola 2021). As the next chapter will detail, many of these individuals and think tanks would play critical roles in manufacturing a culture war against critical race theory (CRT) and higher education more generally. Florida governor Ron DeSantis would later appoint Kessler and Spalding to the Board of Trustees at New College.

Released by the White House two days before Trump left office, the report presents a mythical and romanticized version of the American founding, concluding that “America’s founding principles” are “eternal truths of the human condition.” As such, it is essential to “teach future generations of Americans...[to] cherish our founding principles” (President’s Advisory 1776 Commission 2021, 20). Despite many decades of rigorous scholarship

challenging this romanticized view of American exceptionalism, the 1776 Report refuses to engage credible scholarly arguments, instead dismissing them as “one-sided partisan opinions, activist propaganda or factional ideologies that demean America’s heritage, dishonor our heroes, or deny our principles” (President’s Advisory 1776 Commission, 17). The report places particular blame on higher education, calling universities “hotbeds of anti-Americanism, libel, and censorships that combined to generate in students and in the broader culture...outright hatred for this country” (President’s Advisory 1776 Commission, 18).

Rather than examining why scholars had criticized this hagiographic story of America’s founding, the report instead dismisses these scholars for concocting “false and fashionable ideologies that obscure facts, ignore historical context, and tell America’s story solely as one of oppression and victimhood.” The report concludes that scholars should have arrived at the seemingly self-evident conclusion that American history is “one of imperfection but also unprecedented achievement toward freedom, happiness, and fairness for all.” This “historical truth” is threatened by “[d]eliberately destructive scholarship [that] shatters the civic bonds that unite all Americans” (1776 Commission 2021, 18). In short, the report paints all scholars who critique America’s founding as untrustworthy, deviant, and ideologically motivated. It dismisses their work as not engaged in scholarship but rather as part of a political scheme to undermine the United States. In ways typical of how the right-wing think tank echo chamber portrays higher education, the 1776 Report subjects scholarship to *ad hominem* dismissal, without engaging with its actual arguments or evidence.

Following the report’s release historians of American history resoundingly critiqued the document, calling it wildly inaccurate, incoherent, and a mere regurgitation of outdated, often false, narratives about American exceptionalism (for example: Brockwell 2021; Smith 2021).⁴ The report, in effect, reimposed a vision of the American founding that decades of scholarship and disciplinary debate had resoundingly rejected. While most academics, journalists, and public figures ignored, or outright dismissed, the commission’s report, many of the commission’s participants—and the think tanks and political organizations that employed them—would

⁴ Whole passages are lifted directly from op-eds and material previously published by the Heritage Foundation and the Intercollegiate Studies Institute (Nguyen 2021).

develop ways to push colleges and universities to teach their preferred version of the American founding. Such efforts included portraying educators who taught American history not as teachers and scholars with whom they disagreed but rather as enemies or political operatives seeking to indoctrinate students with “divisive concepts,” such as CRT.

Executive Order 13950

Five days after his Conference on American History speech announcing his intention to create the 1776 Commission, President Trump issued Executive Order 13950—“Combating Race and Sex Stereotyping.” This order outlawed federal agencies from incorporating “divisive concepts,” “race or sex stereotyping,” and “race or sex scapegoating” into military training, as requirements for government contracts or grants, or into training for federal employees. The order’s Orwellian definition of “divisive concepts” is so vague as to seemingly make any discussion of racism, sexism, homophobia, or other forms of social hierarchy off limits (Trump 2020a).

Like the 1776 Report, this executive order also originated in right-wing think tanks. According to reporting by Benjamin Wallace-Wells (2021), the initial idea of weaponizing “critical race theory” as a strategic response to Black Lives Matter protests came from Christopher Rufo. A political operative whose entire career has been underwritten by various right-wing think tanks, Rufo has held (or currently holds) positions as a fellow at both the Claremont Institute and the Heritage Foundation, an adjunct fellow at the Pacific Research Institute, a contributor to the Federalist Society, and a senior fellow at the Manhattan Institute. In 2020, Rufo was employed as director of the Discovery Institute’s Center on Wealth, Poverty, and Morality, where he wrote pieces describing America’s homelessness crisis as resulting from individual failing and permissive public spending.⁵

In July 2020, during the height of the BLM protests, Rufo learned about an antiracism seminar hosted by the city of Seattle’s Office of Civil Rights and, through a Freedom of Information request, attained materials related to the presentation (Wallace-Wells 2021). Rufo

⁵ For reporting on Rufo’s role in weaponizing CRT, see Wallace-Wells 2021; Jones 2021; Meckler and Dawsey 2021; Adler-Bell 2022; and Sitman and Adler-Bell 2021.

then wrote about this webinar on his website and in the Manhattan Institute's City Journal, expressing outrage that the convenors asked the attendees to "examine their 'relationships with white supremacy, racism, and whiteness'" (Rufo 2020). In subsequent months, Rufo published additional material from various diversity training programs around the country, churning out numerous outrage pieces describing antiracism, diversity initiatives, and inclusion training as posing a threat to America.

His most important contribution, however, was explicitly redefining the term "critical race theory" (CRT) as the go-to villain, designed to incorporate, subsume, and delegitimize all discussions of racism. As with the 1776 Commission, Rufo made little effort to engage the actual arguments made by Critical Race scholars but rather used the phrase in a purely strategic manner. Rufo described realizing that conservatives needed to find a way to respond to the gains being made by Black Lives Matter protestors. As he told the journalist Benjamin Wallace-Wells:

"Political correctness" is a dated term...The other frames are wrong, too: "cancel culture" is a vacuous term and doesn't translate into a political program; "woke" is a good epithet, but it's too broad, too terminal, too easily brushed aside. "Critical race theory" is the perfect villain...Its connotations are all negative to most middle-class Americans, including racial minorities, who see the world as "creative" rather than "critical," "individual" rather than "racial," "practical" rather than "theoretical." Strung together, the phrase "critical race theory" connotes hostile, academic, divisive, race-obsessed, poisonous, elitist, anti-American. (quoted in Wallace-Wells 2021)

Once identified as "the perfect villain," right-wing think tanks, media outlets, and partisan political organizations flooded the zone with reports, news stories, talking points, and eventually legislation targeting this manufactured boogeyman. As summarized by journalist Sam Adler-Bell (2022), Rufo's "shrewd innovation...was to apply the once-obscure moniker critical race theory (CRT) to any and all forms of pedagogy that emphasize the persistence of racial domination in American life." Rufo himself would take credit for doing exactly this, bragging in a tweet that "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 toxic, as we put all of the various cultural insanities under that brand category” (Rufo 2021).

Rufo’s weaponization of CRT did not occur in a vacuum. Rather, this strategy spread quickly because Rufo already operated within a well-funded political infrastructure. Many of Rufo’s pieces published about CRT were published by the Manhattan Institute.⁶ Rufo’s weaponization of CRT quickly spread from the Manhattan Institute into the public, thanks in large measure to a September 2, 2020, appearance on Tucker Carlson Tonight. During the program, Rufo represented critical race theory as a “cult indoctrination” that “has pervaded every institution in the federal government.” He then called for an executive order banning CRT (Tucker Carlson Tonight 2020). President Trump watched this performance and contacted Rufo the following day. Three weeks later Trump issued Executive Order 13950 based on Rufo’s input (Trump 2020b). In the months that followed Rufo became a regular talking head on Fox News, which mentioned CRT over 3,900 times in 2021 and hosted Rufo at least 52 times (Geonzon and Davidson 2021; Gertz 2021).

The example of Rufo weaponizing CRT from within a right-wing think tank and media echo chamber is just one example of a larger political infrastructure that has played a central role in shaping the public’s understanding of K-12 and higher education. In the wake of the 2020 Black Lives Matter protests, think tanks like the Manhattan Institute, Heritage Foundation, and The Center for Renewing America have fueled a culture war against educators, which often includes representing faculty who teach and research, especially on race, gender, and American history, in highly partisan terms. These same think tanks regularly produce model legislation designed to pressure faculty and higher education institutions to approach race, gender, and American history in ways preferred by Republican politicians and think tank activists.

The next chapter provides a brief overview of eleven of the think tanks that have played a significant role in executing this sustained culture war backlash against public education.

⁶ Rufo is now a senior fellow at the Manhattan Institute, and a Contributing Editor at *City Journal*. Manhattan Institute, “Christopher F. Rufo,” accessed June 1, 2022, https://www.city-journal.org/contributor/christopher-f-rufo_1334.

Writing many of the model bills that would become law, this small but dense network has played a significant role in marshaling the culture-war backlash against higher education.

Works Cited

- Adler-Bell, Sam. 2022. "Behind the Critical Race Theory Crackdown." *The Forum*, January 13, 2022.
- Faust, Aleshia, Dillon Johnson, Zaria Guignard, Samir Adechoubou, Catherine Harlos, Maura Fennelly, and Ernesto Castañeda. 2019. "Black Lives Matter and the Movement for Black Lives." In *Social Movements, 1768–2018*, ed. E. C. Charles Tilly, Lesley J. Wood. London: Routledge.
- Alexander, Michelle. 2020. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: New Press.
- Azevedo, Flavio, Tamara Marques, and Leticia Micheli. 2022. "In Pursuit of Racial Equality: Identifying the Determinants of Support for the Black Lives Matter Movement with a Systematic Review and Multiple Meta-Analyses." *Perspectives on Politics* 20 (4): 1–23.
- Brockwell, Gillian. 2021. "'A Hack Job,' 'Outright Lies': Trump Commission's '1776 Report' Outrages Historians." *Washington Post*, January 20, 2021.
- Buchanan, Larry, Quoc Trung Bui, and Jugal K. Patel. 2020. Black Lives Matter May Be the Largest Movement in U.S. History." *New York Times*, July 3, 2020.
- Caren, Neal, Kenneth T Andrews, and Micah H Nelson. 2023. "Black Lives Matter Protests and the 2020 Presidential Election." *Social Movement Studies*: 1–18.
- Davis, Angela Y. 2011. *Are Prisons Obsolete?* New York: Seven Stories Press.
- DiAngelo, Robin. 2018. *White Fragility: Why It's So Hard for White People to Talk About Racism*. Boston: Beacon Press.
- Garza, Alicia. 2014. "A Herstory of the #BlackLivesMatter Movement by Alicia Garza." *Feminist Wire* (website). October 7, 2014. <https://thefeministwire.com/2014/10/blacklivesmatter-2/>.
- Geonzon, Jasmine and Madeline Davidson. 2021. "By the Numbers: A Year of Conservative Media Fearmongering Over 'Critical Race Theory.'" *Media Matters for America* (website). December 28, 2021. <https://www.mediamatters.org/critical-race-theory/numbers-year-conservative-media-fearmongering-over-critical-race-theory>.
- Gertz, Matt. 2021. "Fox's Anti-'Critical Race Theory' Parents Are Also GOP Activists." *Media Matters for America* (website). June 17, 2021. <https://www.mediamatters.org/fox-news/foxs-anti-critical-race-theory-parents-are-also-gop-activists/>.
- Gilmore, Ruth Wilson. 2007. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley: University of California Press.
- Hannah-Jones, Nikole. 2019. "Our Democracy's Founding Ideals were False When They Were Written. Black Americans Have Fought to Make Them True." *New York Times Magazine*, August 14, 2019.
- Hannah-Jones, Nikole, and Renée Watson. 2021. *The 1619 Project: Born on the Water*. New York: Penguin.
- Horowitz, Juliana Menasce, Kiley Hurst, and Dana Braga. 2023. "Support for the Black Lives

- Matter Movement Has Dropped Considerably From Its Peak in 2020." PEW Research, June 14, 2023. <https://www.pewresearch.org/social-trends/2023/06/14/support-for-the-black-lives-matter-movement-has-dropped-considerably-from-its-peak-in-2020/>.
- Jones, Sarah. 2021. "How to Manufacture a Moral Panic: Christopher Rufo Helped Incite an Uproar Over Racism Education with Dramatic, Dodgy Reporting." *New York Magazine*, July 11, 2021.
- Joseph, Peniel E. 2022. *The Third Reconstruction: America's Struggle for Racial Justice in the Twenty-First Century*. New York: Basic Books.
- Kamola, Isaac. 2021. "Where Does the Bizarre Hysteria About 'Critical Race Theory' Come From? Follow the Money!" *Inside Higher Ed*, June 3, 2021. <https://www.insidehighered.com/blogs/just-visiting/guest-blog-where-does-bizarre-hysteria-about-critical-race-theory-come-follow>.
- Kendi, Ibram X. 2019. *How to be an Antiracist*. New York: One World.
- Meckler, Laura, and Josh Dawsey. 2021. "Republicans, Spurred by an Unlikely Figure, See Political Promise in Targeting Critical Race Theory." *Washington Post*, June 21, 2021.
- Mills, Charles W. 2014. *The Racial Contract*. Ithaca, NY: Cornell University Press.
- President's Advisory 1776 Commission. 2021. "The 1776 Report." Trump White House Archives. November 2021. <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/The-Presidents-Advisory-1776-Commission-Final-Report.pdf>.
- Rothstein, Richard. 2018. *The Color of Law: A Forgotten History of How Our Government Segregated America*. New York: Norton.
- Rufo, Christopher F. (@realchrisrufo). 2021. "We have successfully frozen their brand." Twitter, March 15, 2021, 3:14 p.m. Accessed <https://twitter.com/realchrisrufo/status/1371540368714428416?lang=en>.
- . 2020. "City of Seattle Holds Racially Segregated Civil Rights Training—In the Name of Social Justice." Christopher F. Rufo (Substack). July 29, 2020. <https://christopherrufo.com/separate-but-equal>.
- Ruth, Jennifer. 2023. "Public Colleges and Universities Face a Coordinated, State-Level Assault." *Academe*, Fall, 11–17.
- Sitman, Matt, and Sam Adler-Bell. 2021. "How (Not) to Talk About Racism." Know Your Enemy (podcast). Patreon, June 30, 2021. <https://www.patreon.com/knowyourenemy>.
- Smith, Craig Bruce. 2021. "How Biden Can Fix Trump's 1776 Disaster." *Politico*, January 22, 2021.
- Somashekhar, Sandhya. 2015. "How Black Lives Matter, Born on the Streets, is Rising to Power on Campus." *Washington Post*, November 17, 2015.
- Taylor, Keeanga-Yamahtta. 2016. *From #BlackLivesMatter to Black Liberation*. Chicago: Haymarket Books.
- Trump, Donald J. 2020a. "Executive Order on Establishing the President's Advisory 1776 Commission." Trump White House Archives, November 2, 2020. <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-establishing-presidents-advisory-1776-commission/>.
- . 2020b. "Executive Order on Combating Race and Sex Stereotyping." Trump White House Archives, September 22, 2020. <https://trumpwhitehouse.archives.gov/presidential>

[-actions/executive-order-combating-race-sex-stereotyping/](#).

---. 2020c. "Remarks by President Trump at the White House Conference on American History." Trump White House Archives, September 17, 2020.

<https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-white-house-conference-american-history/>.

Tucker Carlson Tonight. September 2020. Interview with Christopher Rufo. Posted September 2, 2020, under the title "Critical Race Theory Has Infiltrated the Federal Government: Christopher Rufo on Fox News," Heritage Foundation, YouTube, 6 min., 17 sec., September 2, 2020, <https://www.youtube.com/watch?v=rBXRdWfIV7M>.

Wallace-Wells, Benjamin. 2021. "How a Conservative Activist Invented the Conflict Over Critical Race Theory." *New Yorker*, June 18, 2021.

Zook, Kristal Brent. 2021. "How Black Lives Matter Came to the Academy." *New Yorker*, January 30, 2021.

Chapter 2: Culture War, Think Tanks, and the Dark Money that Funds Them

In response to Black Lives Matter protests and greater LGBTQ+ visibility, a handful of well-funded think tanks have manufactured a backlash against K-12 and higher education. Since 2020, a small group of conservative and libertarian think tanks have intensely scrutinized teachers, faculty, and educational institutions, producing an “echo chamber” of reports, op-eds, conferences and public events, media appearances, email newsletters, and talking points that helped coalesce the backlash.⁷ In doing so they shaped the prevalent narrative that faculty are “liberal,” biased, Marxist, “woke,” and overtly hostile to free speech and conservative views. Many of these think tanks also wrote model legislation that bans so-called “divisive concepts,” curtails campus diversity, equity, and inclusion (DEI) efforts, and seeks to influence academic curriculum and programming.

This chapter examines eleven think tanks that have participated in this culture war against higher education. Many of these think tanks work closely with one another, often sharing personnel and board members, amplifying each other’s work, pushing the same messaging, and supporting shared political objectives. As demonstrated in Appendix 2, this level of coordination is unsurprising given that these think tanks also receive money from the same libertarian and conservative megadonors. Furthermore, as described in the second section, seven of the eleven think tanks are members of the State Policy Network (SPN), an umbrella organization that networks national and state-level libertarian think tanks.

Some of the think tanks examined in this chapter work on the national stage, such as the Center for Renewing America (CRA), the Manhattan Institute for Policy Research, the American Legislative Exchange Council (ALEC), and the Heritage Foundation. Others, such as the James G. Martin Center for Academic Renewal, the Texas Public Policy Foundation (TPPF), and the Idaho Freedom Foundation (IFF), generally focus on state issues but have gained national prominence in the area of higher education. Some think tanks—such as the Claremont Institute

⁷ For an overview of how an integrated network of right-wing think tanks, funded by the same activist donors, have worked to create an “echo chamber,” see Wilson and Kamola 2021; and Leonard 2020, 445.

and the Ethics and Public Policy Center—focus on higher education because of an interest in advancing cultural conservatism. And, like the Martin Center in North Carolina, still other think tanks—including the American Council on Trustees and Alumni (ACTA) and the National Association of Scholars—focus specifically on higher education, with an interest in weakening faculty governance, promoting “viewpoint diversity,” and encouraging more conservative curricula.

This chapter provides an overview of these eleven think tanks, the rhetoric they deploy to portray higher education, and a synopsis of their model legislation and lobbying efforts. Subsequent chapters expand upon this material, focusing on efforts to advance specific legislation. This chapter also draws from Appendix 2, which provides an overview of the top twenty-five donors across these eleven think tanks and SPN. The top donor, DonorsTrust (\$37.4 million), is a donor-advised fund that specializes in anonymizing contributions from wealthy conservative and libertarian megadonors. Often referred to as the “dark money ATM of the conservative movement,” DonorsTrust has a long track record of funding think tanks and political organizations that seek to privatize public institutions, lower taxes on the wealthy, and advocate against government regulation (Kroll 2013). In addition to DonorsTrust, the list also includes other donor-advised funds widely used by megadonors, including several funds linked to funding anti-LGBTQ hate groups and election denial (see: Kotch 2023; Hussain 2021). The remaining foundations included in this list are a “who’s who” of conservative and libertarian donors, including the Bradley Foundation, Searle Freedom Trust, Scaife Foundation, Charles Koch Institute, and others.⁸

National Think Tanks

Understanding this network of integrated and well-funded think tanks helps explain how the culture-war backlash against higher education took shape so quickly. One of these national

⁸ For an overview of these conservative and libertarian megadonors see Mayer 2017; Hertel-Fernandez, Skocpol, and Sclar 2018; Wilson and Kamola 2021, 10–28. Additional information can be found at DeSmog.org and SourceWatch.org.

think tanks—the CRA—has its origins in Executive Order 13950, which banned federal employee training from certain discussions of race and gender (Chapter 1).

Center for Renewing America (CRA)

CRA was created in early 2021 by Russel Vought, Donald Trump’s former director of the Office of Management and Budget. In conversations with Rufo, Vought wrote and implemented the 2020 “Combating Race and Sex Stereotyping” executive order banning training and workshops on systemic racism for federal employees (Trump 2020). Vought left the White House shortly after Trump signed the executive order to form the CRA, which is dedicated to “renew[ing] a consensus of America as a nation under God” (Center for Renewing America n.d.).

CRA has played an active role in disseminating primers, policy briefs, and other content painting a deeply partisan characterization of critical race theory (CRT). For example, its “Glossary of CRT-Related Terms” — which includes entries on “critical pedagogy,” “ontological,” “anti-bias training,” “anti-blackness,” “cultural responsiveness,” “equitable,” “intersectionality,” “racial justice,” “restorative justice,” “social-emotional-learning,” “white supremacy,” “woke,” etc.—lumps together wide swaths of scholarly and popular approaches to the study of race and racism and, without nuance, describes them as all interchangeable aspects of CRT. Reminiscent of Rufo, this lack of good-faith engagement is not surprising given that the glossary was designed to “help concerned citizens comb through curricula, public records communications, teacher training, etc.” to find evidence of rampant CRT in public schools (Young 2022). CRA also published an “A to Z Guide” instructing individuals on how to disrupt the implementation of CRT curricula. This guide was widely covered on Fox News (Simon 2021).

CRA has also converted Trump’s Executive Order 13950 into a piece of model legislation that has been introduced in dozens of states (Simon 2021). This model legislation defines a “divisive concept” as any statement that posits:

1. One sex, race, ethnicity, color, or national origin is inherently superior to any other sex, race, ethnicity, color, or national origin;
2. The United States is fundamentally or systemically racist or sexist;

3. An individual, by virtue of the sex, race, ethnicity, religion, color, or national origin attributed to them is inherently racist, sexist, or otherwise prejudiced or oppressive, whether consciously or unconsciously;
4. An individual should be discriminated against or receive adverse treatment solely or partly because of the sex, race, ethnicity, religion, color, or national origin attributed to them;
5. An individual's moral character is necessarily determined by the sex, race, ethnicity, religion, color, or national origin attributed to them;
6. An individual, by virtue of the sex, race, ethnicity, religion, color, or national origin attributed to them, bears responsibility for actions committed in the past by other members of the same (or any other) sex, race, ethnicity, religion, color, or national origin;
7. Any individual should be targeted and made to feel discomfort, guilt, anguish, or any other form of psychological distress due to the sex, race, ethnicity, religion, color, or national origin attributed to them;
8. Meritocracy or traits such as a work ethic or devotion to duty and obligations are racist or sexist, or were created or recognized by a particular race to oppress another race; or
9. The term "divisive concept" includes any other form of race or sex stereotyping or any other form of race or sex scapegoating;
 - a. "Race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex;
 - b. "Race or sex scapegoating" encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others. (Citizens for Renewing America 2021, 1-2)

Many of the academic gag orders described in Chapter 3 draw upon some combination of the nine-point definition included in Executive Order 13950 or the slightly modified language circulated in CRA or Heritage Foundation model legislation (see Appendix 3 for a side-by-side

comparison). While CRA converted the executive order into a model bill banning “divisive concepts” in K-12 schools, its language also appeared in gag orders affecting higher education (see Chapter 3). According to our coding, of the ninety-nine academic gag orders introduced during the 2021, 2022, and 2023 legislative cycles, all but nineteen drew directly from Executive Order 13950 or from similar language included in CRA or Heritage Foundation model bills.

The sanctions included in the CRA model bill exemplify how it was designed to impose a conservative Christian worldview on public education. The CRA model bill includes penalties for teachers found in violation of the law, including “30 days of administrative leave without pay” for the first offense. After a second offense, the educator is “terminated” and the school is required to “issue a public statement reiterating its commitment to upholding the fundamental American idea that all men are created equal and endowed by their Creator with unalienable rights to life, liberty, and the pursuit of happiness” (Citizens for Renewing America 2021, 5).

When academic gag orders drawn from CRA language first emerged in 2021, Vought refused to disclose the organization’s funding sources (Allison 2021). It has since been revealed that CRA operates under the umbrella of the Conservative Partnership Institute (CPI), a 501(c)(3) nonprofit created in 2017 when former Senator Jim DeMint left the Heritage Foundation (Sourcewatch 2024). The CPI houses Trump’s former Chief of Staff Mark Meadows as a senior partner and Cleta Mitchell as a Senior Legal Fellow. Mitchell is a former Trump lawyer who played a critical role in advancing the 2020 election-denial narrative (Sollenberger 2023; see also Documented 2022). CPI also “incubates” several right-wing think tanks and political organizations. For example, in addition to Center for Renewing America, CPI also backs America First Legal—led by Trump’s senior adviser Stephen Miller—as well as Cleta Mitchell’s Election Integrity Network that promotes election denial and recruits “poll watchers.”⁹

According to tax documents, CPI had 2021 revenue of \$45.7 million, of which CRA received \$583,701 (Nonprofit Explorer 2024). Between 2020 and 2022, CPI received \$18.1 million

⁹ In addition to CRA, America First Legal, and Election Integrity Network, CPI has also supported the formation of American Cornerstone Institute, American Accountability Foundation, State Freedom Caucus Network, American Moment, and Personnel Policy Operations (CPI n.d.).

from twelve foundations listed in Appendix 2, including DonorsTrust and the Bradley Foundation. In addition to the Rydin Foundation, which gave \$1.5 million to CPI, Mike Rydin—a retired software engineer with a long history of funding Republican and MAGA causes—personally contributed approximately \$25 million to CPI, single-handedly transforming it into the “‘nerve center’ of the MAGA movement” (Sollenberger 2023).

Manhattan Institute for Policy Research (MI)

The Manhattan Institute for Policy Research was created by Antony Fisher in 1977. An admirer of F. A. Hayek and a member of the Mont Pelerin Society, Fisher took up Hayek’s call to create a network of free-market think tanks to spread libertarian economics beyond the academy and into policy circles. Over the course of his career, Fisher played a key role in establishing many of the most prominent libertarian think tanks around the world, including the Institute for Economic Affairs (UK), the Adam Smith Institute (UK), Fraser Institute (Canada), Pacific Research Institute (California), the Atlas Network, and many others.¹⁰ In the years since the Manhattan Institute has funded several libertarian writers and media personalities. For example, during the 1980s the Manhattan Institute funded Charles Murray to write *Losing Ground*, a race-based justification for the causes of poverty, that proved useful when defending dramatic cuts to social services during the Clinton administration (Wilson and Kamola 2021, 57–59).

Today MI also houses Christopher Rufo, who is Senior Fellow, contributing editor to the house publication *City Journal*, and director of the Initiative on Critical Race Theory. Rufo, largely credited with weaponizing the term “critical race theory” (see Chapter 1), started his anti-CRT campaign in a *City Journal* column in July 2020 where he wrote about diversity training offered by Seattle’s Office of Civil Rights. Since then, Rufo has published over one hundred columns in *City Journal*, many focused on critical race theory, DEI efforts in schools, woke-ness, so-called gender ideology, and “left-wing radicals” in K-12 and higher education. He claims that “critical race theory is becoming the operating ideology of our public

¹⁰ For a history of MI and Antony Fisher, see Cockett 1995, 306–07; Hoplin and Robinson 2008, 151–66.

institutions” (Rufo 2021). He has mainstreamed the notion that university governing boards should play an active role in determining college curriculum, arguing that boards should assert their authority to “abolish academic programs, such as critical race theory, ethnic studies, queer theory, gender studies, and intersectionality, that do not contribute to the production of scholarly knowledge” (Rufo 2023a). After Governor Ron DeSantis appointed him to the Board of Trustees at the New College of Florida, Rufo put this vision into practice by spearheading efforts to end the college’s gender studies program which he deemed incompatible with a “classical liberal-arts education,” accusing it of “ideological activism” (Pettit 2023). After his appointment to the board, Rufo tweeted: “We are now over the walls and ready to transform higher education from within. Under the leadership of Gov. DeSantis, our all-star board will demonstrate that the public universities, which have been corrupted by woke nihilism, can be recaptured, restructured, and reformed” (quoted in Jafar et al. 2023, 5).

In addition to a deluge of reports, op-eds, podcasts, and parent toolkits attacking CRT, DEI, “critical social justice,” “gender ideology,” wokeness, and other supposed crises of American education, Rufo and his MI colleagues have also authored several model bills seeking to transform both K-12 and higher education. For example, the Institute’s model legislation on CRT in K-12 education requires schools to post-training materials about “all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias,” including the names of the teachers responsible for these training sessions. Incorporating language drawn directly from a model bill written by Stanley Kurtz, a Senior Fellow at the Ethics and Public Policy Center (see below), the MI legislation also prevents teachers from offering credit for “student’s political activism, lobbying, or efforts to persuade” political representatives. It would prohibit “compel[ing] a teacher, administrator, or student personally to affirm” four points drawn from Executive Order 13950 and empowers the attorney general to sue any schools that violate these prohibitions (Copland 2021, 11–14; Rufo, Copland, and Ketcham 2021).

Another MI model bill polices sex education, requiring that schools inform parents about “student’s purported gender identity or requested gender transition” (Rufo 2023, 2). In cooperation with the Goldwater Institute, the MI also authored a model bill aimed at ending

DEI initiatives on college campuses.¹¹ This bill, taken up in several states (see Chapter 3), seeks to close DEI “bureaucracies,” end DEI training, prevent diversity statements in hiring and promotion, and outlaw diversity-based criteria in hiring (Rufo, Shapiro, and Beienburg 2023). This model bill asserts that DEI offices are engaged in an “illiberal takeover of higher education...that, ironically, stifle intellectual diversity, prevent equal opportunity, and exclude anyone who dissents from a rigid orthodoxy” (Rufo, Shapiro, and Beienburg 2023).

Between 2020 and 2022, the Manhattan Institute received \$22.9 million from the top twenty-five donors listed in Appendix 2, including from DonorsTrust, Bradley Foundation, Searle Freedom Trust, Scaife Foundation, and others.

American Legislative Exchange Council (ALEC)

Conservative movement activist Paul Weyrich created ALEC in 1973, bringing together corporate interests (“private sector members”) to develop model legislation for state legislators (“public sector members”). Between 1995 and 2013 approximately 10,000 ALEC model bills were introduced in statehouses across the country, with 1,500 enacted into law (Hertel-Fernandez 2019, 76). ALEC writes model bills that benefit its corporate and wealthy donors, many of whom have particular interests in reshaping the health, education, and energy sectors. Most bills “prioritize privatization of previously public services, carving out favorable regulatory treatment for business, and ensuring low taxes” on corporations and the ultra-wealthy (Hertel-Fernandez 2019, 76). In 1986 ALEC helped found the Madison Group, bringing together a dozen state-level think tanks to advance its model legislation at the state level (Hertel-Fernandez 2019, 147–48). A few years later the Madison Group spun off to form SPN (see below).

More recently, ALEC has developed several bills focused on campus speech. In 2017, ALEC introduced the Forming Open and Robust University Minds (FORUM) Act which limits the ability of academic institutions to determine community standards around speech, while

¹¹ The Goldwater Institute is an Arizona-based libertarian think tank and State Policy Network (SPN) member. It received \$6.4 million from Koch-family Foundations, the Bradley Foundation, and DonorsTrust/Donors Capital Fund between 2001–2019 (Wilson and Kamola 2021, 167).

constraining and penalizing the speech of student protestors (Wilson and Kamola 2021, 105–10). Versions of this bill were introduced in thirty-eight states between 2016 and 2020, sponsored by more than 180 state legislators with known ALEC affiliations (Wilson and Kamola 2021, 106). ALEC takes credit for passing versions of the FORUM Act in more than twenty states (Williams Schalk, and Laoutaris, 19). ALEC followed the FORUM Act with the “Free Speech in Higher Education Act” (2022), which outlaws campus bias reporting systems while simultaneously stripping away the ability to regulate hate speech on campus. The bill prevents schools from curtailing all but the most narrowly defined instances of “student-on-student harassment,” allowing all other forms of hate speech to continue unchecked in the name of “campus free speech” (Education and Workforce Development Taskforce 2022).

In addition to designing model legislation regulating campus speech, ALEC has also played an active role in stoking the educational culture wars after the 2020 Black Lives Matter protests. Shortly after Trump signed Executive Order 13950, ALEC hosted a workshop, “Against Critical Theory’s Onslaught,” at its State and National Policy Summit, bringing together “state legislators, corporate lobbyists, and staff from right-wing policy organizations and private foundations.” The workshop, featuring Christopher Rufo as well as speakers from the Heritage Foundation and the American Enterprise Institute, discussed how “[t]he 1619 curriculum is infecting our schools” and “[d]iversity training is taking over our workplaces.” Several state legislators who attended this workshop returned to their states to introduce anti-CRT bills (Wiener and Kotch 2021).

In 2021, ALEC released model legislation specific to the culture-war backlash in K-12 education. ALEC’s “American Civics and History Act” mandates a semester of American civics in middle school, designed to “teach, foster, and perpetuate the ideals, principles, and spirit of democracy and economic freedom in America”. The bill also requires educators post their social science teaching materials “online for parents to review” (Education and Workforce Development Taskforce 2021). The 2022 “Honesty in Teaching” model legislation offers language similar to the CRA and Heritage Foundation’s “divisive concepts” bills, outlawing “compel[ing] a person to adopt, affirm, adhere to or profess an idea” such as someone is “inherently superior or inferior to people,” or that “[a]n individual should be discriminated

against or receive adverse treatment,” or that individuals “cannot and should not attempt to treat others equally” based on various descriptors, such as sex, race, or gender identity. Between 2020 and 2022, ALEC has received \$9.2 million from sixteen of the twenty-five donors listed in Appendix 2, including \$1.8 million from the Bradley Foundation.

Heritage Foundation

Created in 1973 by conservative movement activist Paul Wyerich, the Heritage Foundation has become a major force in conservative politics. Historically, the Heritage Foundation was known for “serious research” that played a significant behind-the-scenes role in introducing and defending conservative legislative priorities among elites and lawmakers. However, in 2010 the foundation created a lobbying arm, Heritage Action, to actively push its legislative agenda. In the decade since, Heritage has emerged as a lobbying juggernaut. In 2013, the populist Republican senator Jim DeMint became president, drawing Heritage closer to the Tea Party movement (Steinhauer and Weisman 2014). Since then it has played a critical role in Trump’s transition and embraced “the hard-line, uncompromising vision for conservatism associated with the Tea Party” (Peters and Haberman 2017). According to tax records, in 2022 the Heritage Foundation had \$106 million in revenue, with \$338 million in total assets (Nonprofit Explorer 2024a).

The Heritage Foundation has lent its incredible political weight to mass producing culture-war content politicizing education and attacking CRT, DEI, and the “woke” academy more generally. It has published a steady stream of commentary, op-eds, reports, podcasts, and public events that decry the current state of education. A number of Heritage research fellows on staff specialize in producing such content, including publishing books with titles such as *Splintered: Critical Race Theory and the Progressive War on Truth* (Butcher 2022) and *BLM: The Making of a New Marxist Revolution* (Gonzalez 2021).¹² Mike Gonzales alone has written

¹² Butcher (2022) is published with Bombardier Books, which publishes right-wing firebrands such as Laura Loomer, Matt Gaetz, self-defined Islamophobe Robert Spencer, hydroxychloroquine-promoting doctor Simone Gold, Alan Dershowitz, and others (Dickey 2022). Gonzalez (2021) is published by Encounter Books, a Bradley Foundation-funded publisher that publishes a long catalog of right-wing think tank personalities, including those from the Heritage Foundation, Manhattan Institute, Hillsdale College, and others (SourceWatch n.d. b).

hundreds of pieces of commentary, focusing on CRT, DEI, “cultural Marxism,” and Black Lives Matter. He writes that American children are being “poison[ed]” and “indoctrinated” by “anti-American, anti-reality, counter-factual ideas” in schools and universities (Gonzalez and Gorka 2022, 4). Trump appointed Gonzalez to the 1776 Commission.

The Heritage Foundation also published several books and reports that seek to delegitimize CRT. The edited book *The Critical Classroom*, for example, begins by noting that “America...has flaws” but has “made great strides toward living up to its founding ideals of liberty, justice, equality, opportunity, and unity among its people.” CRT, the book argues, threatens to undermine these gains by seeking social changes that are “antithetical to those Founding ideas” and seeks to “reinflame[e] racism by clamoring for a new race-consciousness in policymaking” (Roberts 2022, 1). Likewise, a free eBook published by Heritage characterizes CRT as concluding that “American culture is a conspiracy to perpetuate white supremacy.” However, rather than engaging with actual scholarship on race and racism, the book includes only a small handful of decontextualized snippets from scholars to make sweeping claim about what CRT is, while relying on uncited and unnamed social scientists to assert that “[i]ndividual choices and decisions have a greater impact on our happiness, well-being, and success,” concluding that poverty therefore follows from personal failings not social hierarchy or racism (Heritage Foundation 2021, 5 & 8).

These and other books, reports, and commentaries follow the libertarian insistence that individual choice and personal freedom are the only real solutions to racism. For example, Heritage authors claim that poverty and incarceration follow from “family characteristics,” such as whether a child comes from “intact families” (Heritage Foundation 2021, 8). Likewise, Christopher Rufo, a Visiting Fellow for Domestic Policy Studies in 2020, published a report insisting that “[c]ontrary to the doctrine of critical race theory, the solution to poverty—for members of all racial groups—is to provide a pathway for stable two-parent households, achievement-based academic success, and full-time work for householders” (Rufo 2021a). Heritage publications therefore regularly insist upon the free market and libertarian doctrine as policy solutions, without engaging the scholarship of academics who argue that such individualist explanations cannot explain the persistence of racial inequality. Heritage Action

also maintains the “Save our Schools” website, which offers school board training, a legislation tracker, model school board policies, and links to Heritage-produced materials to arm parents to take action (Heritage Action for America n.d.).

Heritage has also published pieces for policymakers about how to effectively ban CRT. For example, as academic gag orders became increasingly challenged in court (see Chapter 4), Adam Kissel, a Visiting Fellow at Heritage’s Center for Education Policy, wrote an influential piece laying out how to crack down on CRT without falling on the wrong side of the First Amendment. A former free speech advocate at the Foundation for Individual Rights in Education (FIRE) and Deputy Assistant Secretary for Higher Education in the Trump administration, Kissel argued that legislators should not argue about the merit of ideas per se, but instead to present “unserious topics (CRT, astrology, etc.)” as “not a high enough priority, and accordingly that CRT fits no module, unit, or course, and that no resources will be used to buy library books in that subject area” (Kissel 2022).¹³ He concludes by reminding readers that while markets should ultimately govern higher education, in the meantime cleverly constructed legislation is necessary to enforce what (Kissel assumes) a deregulated libertarian market would naturally provide (Kissel 2022).

In addition to producing content for the anti-CRT echo chamber, the Heritage Foundation also writes model legislation designed to restrict the teaching of those scholarly ideas it disagrees with. As with the CRA model bill, “Protecting K–12 Students from Discrimination” also draws upon language from Trump’s Executive Order. This model bill, however, focuses on three of the nine so-called “divisive concepts” defined in Executive Order 13950 and makes it illegal for a “public education employee” to “compel a teacher or student to adopt, affirm, adhere to, or profess” these ideas (see Appendix 3). While the Heritage model bill was written for K-12 education, it has been applied to higher education institutions as well (see, for example, Idaho HB 377). The Heritage Foundation has also written model legislation requiring parental consent before teachers call a student by a preferred name that differs from

¹³ Kissel writes, “So long as public colleges exist, there will be democratic pressures regarding what to teach and what not to teach. A completely privatized, competitive ecosystem of higher education would be democratic in a different way; students would vote with their tuition dollars” (2022). For a critique, see Wilson 2022.

their “given name.” The model bill also requires publicly posting lesson plans and makes it easier for parents to object to sex education materials (Heritage Foundation n.d.; Heritage Foundation n.d. a). In January 2024 the Heritage Foundation released its own anti-DEI legislation aimed at higher education (Heritage Foundation 2024).

In addition to producing model bills for state legislatures, the Heritage Foundation’s Project 2025 seeks to impose these changes on the federal government. Project 2025 has published a nearly nine-hundred-page agency-by-agency report, *Mandate for Leadership*, outlining the kinds of federal changes that the Heritage Foundation would push should a Republican win the presidency in 2024. The book’s eleventh chapter proposes sweeping changes for the U.S. Department of Education. Written by Lindsey Burke, the organization’s director of the Center for Education Policy, this chapter lays out a federal pro-voucher and pro-privatization vision that “follow[s] the path outlined by Milton Friedman in 1955, wherein education is publicly funded but education decisions are made by families” (Burke 2022, 319). The proposed policy changes include dramatically cutting federal funding to education, “rejecting gender ideology and critical race theory,” weakening accreditation, ending student loan forgiveness, strictly focusing education on job training and economic growth, and expanding “parental rights” and school choice. *Mandate for Leadership* also envisions enforcing curricular priorities consistent with the right-wing culture war narrative, allowing Congress to “wind down [funding for] so-called ‘area studies’ programs” and for the Secretary of Education to instead fund “international business programs that teach about free markets and...further the stated statutory goals of serving American interests” (Burke 2022, 356). It is not surprising that many of the think tanks examined in this report also sit on the Project 2025 Advisory Board (see Table 2.1). Should a Republican be elected president in 2024, the CRA’s Russ Vought would likely be tapped to implement Project 2025 (Hirsh 2023).

Table 2.1: Think Tank Representation on the Project 2025 Advisory Board

Think Tank	Board <i>Project 2025</i> ?
American Council of Trustees and Alumni	Yes
American Legislative Exchange Council (ALEC)	Yes
Conservative Partnership Institute	Yes
Claremont Institute	Yes
Ethics and Public Policy Center	Yes
Heritage Foundation	Yes
Idaho Freedom Foundation	No
James G. Martin Center for Academic Renewal	No
Manhattan Institute for Policy Research	No
National Association of Scholars	Yes
Texas Public Policy Foundation	Yes

Source: Paul Dans and Steven Groves, eds. 2022. *Mandate for Leadership: The Conservative Promise*. Washington, D.C.: Heritage Foundation, xi–xii.

Between 2020 and 2022 the Heritage Foundation has received \$14.8 million from eleven of the twenty-five major donors listed in Appendix 2, including from DonorsTrust, Charles Koch Institute, as well as from other donor-directed funds.

State-Level Think Tanks

In addition to these national think tanks, three state-level think tanks have also played outsized roles manufacturing the culture-war backlash against higher education. Located in North

Carolina, Texas, and Idaho, these think tanks are members of SPN and regularly work in collaboration with some of the national think tanks described above. Furthermore, their particular focus on higher education has given them particular influence in shaping legislation.

James G. Martin Center for Academic Renewal

The James G. Martin Center for Academic Renewal focuses on “improving higher education in North Carolina and the nation” (2024). The Martin Center received \$1.4 million from its primary funder, the John William Pope Foundation, between 2020 and 2022 (Appendix 2). Founded in 1986, the Pope Foundation—currently under the leadership of the founder’s son, James “Art” Pope—has spent lavishly to support conservative causes in North Carolina, including funding the John Locke Foundation and the Civitas Institute. Together with the Martin Center, these three think tanks are widely credited with pushing a libertarian political project throughout the state (Gold 2014). As a child, Art Pope attended Cato Institute summer camps and immersed himself in the work of Ayn Rand and other libertarian writers. Pope is a close ally of Charles Koch and currently serves on the Board of the Bradley Foundation (Kromm 2011).

Pope’s first known interest in campus politics came in 1975 when, as a first-year student at UNC, he filed a complaint against the leader of the Black Student Movement who shouted down David Duke (Sturgis 2021). Since then Pope has used his personal fortune to advance his political commitments, which include pushing the UNC system in a more conservative direction. As early as 1995, Pope expressed interest in acquiring a seat on the UNC’s Board of Governors but was considered too partisan for such an appointment. He solidified his position as a major Republican donor in 2010 when he funded the radical gerrymandering of North Carolina, part of the party’s REDMAP strategy. In North Carolina, the REDMAP project produced a 2012 electoral map in which Democrats won only four of thirteen house seats, despite winning 50.6 percent of the statewide vote (Daley 2017, 47). As Budget Director to Republican Governor Patrick McCrory (2013–14), Pope advocated budget cuts to UNC-Chapel Hill, while also using his fortune to support his preferred subjects including “classes in politics, economics, and Western civilization” (Gold 2014). As an established Republican donor and political figure, Pope eventually achieved his goal of being appointed to the UNC Board of

Governors in 2020. The AAUP's report on North Carolina describes a system that unified Republican control has ceded to political appointees "more interested in the political ideologies of campus actors, and less experienced with higher education than their predecessors" (Special Committee 2022, 4).

In recent years, the Pope-funded Martin Center has published a steady stream of articles and op-eds railing against CRT. The Martin Center is also preoccupied with the issue of a supposed lack of viewpoint diversity within higher education, calling for legislation to "ensure a balance in a sector that is considered ideologically lopsided" (Maitra 2021). To this end, the Martin Center regularly argues for circumventing faculty governance and instead empowering "parents, students, trustees, alumni, and administrators" to claim larger roles shaping state higher education institutions (James G. Martin Center 2024). For example, the Martin Center publicly justified the decision by UNC Board to deny Nikole Hannah-Jones a tenured position in the journalism school, arguing that governing boards should be even more active role in making faculty hiring and firing decisions (Sturgis 2021; Kamola 2024).

The Martin Center also championed the creation of UNC-Chapel Hill's School of Civic Life and Leadership (SCiLL). In January 2023, trustees voted to approve the creation of the school, outside the purview of regular faculty governance. This decision was widely criticized, especially after the chair told Fox News that this new school would combat the prevalence of "left-of-center, progressive views on our campus" (Quinn 2023). The Martin Center rallied to defend the board's decision, arguing that the school was never intended to push a conservative agenda, and blaming the media for the misrepresentation (Robinson 2023; Jones 2023). SCiLL, however, institutionalizes the existing Program for Public Discourse, established—in the words of Provost who set up the program—to "create a 'conservative center' on campus" (Pender 2023). A Wall Street Journal editorial (2023) celebrating the creation of the school exemplifies the think-tank echo chamber at work. When the *Wall Street Journal* contacted the vice chair of the UNC Board for comment about the vote, the board member forwarded a Martin Center article,

which cited a College Fix piece that claimed UNC faculty are disproportionately registered Democrats. The statistic made its way into the editorial (Pender 2023).¹⁴

The Martin Center also pays special attention to the issue of university accreditation. For example, a piece written by the former vice president of the John Locke Foundation quotes a TPPF report ranking accrediting agencies based on the earning potential of those graduating from institutions they assess (Leef 2022). While the Martin Center is a fairly wonky outlet, with a focus on the application of libertarian free-market fundamentalism to university governance, other state-level think tanks have specialized in amping up the culture-war rhetoric.

Texas Public Policy Foundation (TPPF)

Founded in 1989, the Austin-based TPPF is committed to “promot[ing] and defend[ing] liberty, personal responsibility, and free enterprise in Texas and the nation”¹⁵ TPPF focuses on a range of issues of particular interest to its wealthy donors, including lower taxes, energy deregulation, school privatization, and so-called election integrity. Its Unlock Higher Ed program is directed by Thomas Lindsay, who served on Trump’s 1776 Commission. In recent years, TPPF has focused on campus DEI initiatives, playing a significant role in writing—and lobbying for—the legislation banning DEI efforts in Texas and elsewhere (Chapter 4).

TPPF has also sought to weaken accreditation standards. A TPPF report, written by Adam Kissel (Heritage Foundation) and Timothy Rosenberger (Manhattan Institute), claims that accreditation processes are problematic because they “promote or require diversity, equity, and inclusion (DEI) policies and...stop conservative or even neutral reforms at U.S. colleges and universities” (Kissel and Rosenberger 2023, 3). The report cites publications produced by ACTA, the American Enterprise Institute, the Heritage Foundation, the National Association of Scholars’ publication *Minding the Campus*, the James Martin Center, and the College Fix. TPPF’s

¹⁴ The College Fix is a right-wing media website that pays students between \$50 and \$100 to write outrage pieces about higher education. It receives funding from right-wing libertarian donors, including Charles Koch Foundation, Bradley Foundation, and DonorsTrust, and Donors Capital Fund. See Kamola 2019, 11–12; and Wilson and Kamola 2021, 70–71.

¹⁵ TPPF has received considerable funding from the Koch family foundations (\$4.1 million), Donors Capital Fund and DonorsTrust (\$5.1 million), Koch Industries, the tobacco industry, ExxonMobil, and libertarian foundations including Searle Freedom Trust, Bradley Foundation, Coors Foundation and others (DeSmog TPPF).

Senior Policy Analyst Andrew Gillen (formerly program officer at the Charles Koch Foundation and ACTA fellow) covered the report favorably in the National Association of Scholar's *Minding the Campus* (Gillen 2023).

TPPF received \$27.5 million from eighteen of the top twenty-five donors listed in Appendix 2, including large contributions from DonorsTrust, the Charles Koch Institute, the Koch-led Seminar Network, and several donor-advised funds.

Idaho Freedom Foundation (IFF)

IFF is also a state-level libertarian think tank, created to “defeat Marxism and socialism by building a culture of liberty around America’s founding principles” (IFF n.d.). Founded in 2009, it has a track record of attacking pro-LGBTQ and DEI initiatives in public education, criticizing state support for DREAMERS, and organizing protests against the state’s COVID-19 stay-at-home orders (SourceWatch n.d. a). IFF maintains a scorecard for state legislators—a “Freedom Index”—that includes metrics to evaluate whether elected officials support higher education legislation that “eliminate[s] layers of bureaucracy,” “protect[s] free speech and academic freedom,” increases transparency in education, promotes “merit, individual responsibility, [and] personal agency,” and “incentiviz[es] entrepreneurship” (IFF n.d. a). Its Center for American Education maintains the Liberty in Education and Academic Development database that correlates academic performance, spending, with a “number of critical social justice (CSJ) incidents” (IFF n.d. b).

The director of IFF’s Center for American Education, Anna K. Miller, has co-authored several reports on CRT, DEI, and so-called social justice ideology. As discussed in Chapter 4, the first of these reports—written with Scott Yenor, a political science professor at Boise State University and fellow at the Claremont Institute—focused on “social justice ideology” at Boise State University (Miller 2021). Subsequent reports, written in the same style and often with the same cover image, claim to chronicle a crisis of “wokeness” and social justice at the University of San Diego, University of North Carolina (co-written with the Martin Center), University of Tennessee (along with another report on the entire Tennessee system), Texas A&M, various Florida Universities, University of Alabama, and Auburn University as well as reports on public

K-12 education in Idaho, Florida, California, and Maine (co-written with the Maine Policy Institute).¹⁶ Miller testified about social justice ideology in Idaho universities before the Lt. Governor’s Education Task Force in 2022 (IFF 2022). As demonstrated in Chapter 4, several of these state-level reports would prove particularly influential in several states that passed bills banning DEI (Center for American Education n.d.). Mirroring the general shift in concern from CRT to “gender ideology,” Miller’s recent report focuses on how “[e]ven in red state radical gender ideology” came to “pervades public schools” (Miller and Yenor n.d.).

Between 2020 and 2022, IFF received \$171,677 from several of the foundations and trusts listed in Appendix 2. Between 2010-16 it received \$694,600 from Donors Capital Fund, a companion to DonorsTrust (SourceWatch n.d. a).

Cultural Conservative Think Tanks

Some think tanks play a prominent role in the culture-war backlash owing to their particular focus on promoting conservative cultural issues.

Claremont Institute

The Claremont Institute is a highly influential think tank within the national conservative movement, and is best known for housing John Eastman—the Trump lawyer who helped spearhead efforts to overturn the 2020 election. Once considered a high-minded conservative outlet, it threw its support behind Trump in 2016 with the publication of an essay by Michael Anton, written under a pseudonym, declaring the election akin to Flight 93, namely you either “charge the cockpit” and vote for Trump “or you die” (Publius Decius Mus 2016; see also Zerofsky 2022). In the subsequent years, Claremont has played an increasingly significant role in the anti-woke culture war, particularly by informing the cultural New Right and the national conservatism movement. As one journalist explains, Claremont is “a group of people, not internet conspiracy freaks but credentialed and influential leaders, who are openly contemptuous of democracy” (Stewart 2023).

¹⁶ A full list of reports can be found at Center for the American Way of Life (n.d.) and Center for American Education (n.d. a).

In this capacity, Claremont has played an active and aggressive role in producing the culture-war backlash against educators. For example, its in-house publication, *The American Mind*, publishes a steady stream of content accusing education of Leftist indoctrination. In April 2021 the editors released a statement condemning critical race theory as “directly opposed to the fundamental principles of American government and political order” (Editors of *The American Mind* 2021). The same day the *American Mind* published a Christopher Rufo article “affirm[ing]” the editorial, declaring CRT to be “reprehensible and contrary to American values” (Rufo 2021b).

Claremont also hosts the Center for the American Way of Life, home of Boise State professor Scott Yenor, whose writings appear in the Manhattan Institute’s *City Journal*, the Heritage Foundation, as well as a veritable torrent of reports on “social justice ideology” co-written with Anna Miller of IFF. In 2017 Yenor came under fire when he wrote a piece for the Heritage Foundation claiming that “the radical feminist revolution” is now “advancing transgender rights, especially as applied to children” (Yenor 2017). When students at Boise State called for his termination, the dean condemned Yenor’s statement but defended his academic freedom (Pettit 2021). Yenor stirred up a subsequent controversy in 2021 at the National Conservatism Conference when he claimed that “independent women” are “more medicated, meddlesome, and quarrelsome than women need to be,” and “[i]f we want a great nation, we should be preparing young women to become mothers, not finding every reason for young women to delay motherhood” (quoted in Holmes 2021).

As demonstrated in subsequent chapters, Claremont has been particularly effective in Florida. In 2023 the Center for the American Way of Life even opened an office in Tallahassee, and announced plans to open another office in Dallas in summer 2024 (Claremont Institute 2024, 36). In February 2023, Yenor relocated to Florida to take up the position as Senior Director of State Coalitions, where he works closely with Ron DeSantis on higher education issues (Stewart 2023). Claremont’s biennial report claims that Yenor was able to “[d]ra[w] on Claremont’s extended network” to “facilitate[] appointments to university Boards of Trustees and key administrative positions in the Florida University System. His influence even reached

accreditation, redirecting Florida’s strategy from a legalistic approach to a comprehensive approach” (Claremont Institute n.d., 26).

Between 2020 and 2022 the Claremont Institute received \$1.7 million from a dozen entities listed in Appendix 2. The chair of the Claremont board, Thomas Klingenstein, is also a prominent Republican donor. The Klingenstein Fund has made contributions to the National Association of Scholars (\$100,080), CPI (\$75,000), and Ethics and Public Policy Center (\$10,000).¹⁷ In emails unearthed through a Freedom of Information request by the *New York Times*, Klingenstein emailed Yenor in the immediate wake of the Black Lives Matter protests bemoaning the fact that “our side is getting absolutely murdered,” and complained that “We have not even come up with an agreed-on name for the enemy” (Confessore 2024). Yenor replied, “I obviously think social justice is what we should call it...We should use the term that is most likely to stigmatize the movement” (Confessore 2024). It is not surprising, therefore, that the reports Yenor wrote for Claremont focused on “social justice ideology,” and used this highly politicized term as a brush with which to tarnish campus DEI efforts.

Ethics and Public Policy Center (EPPC)

Founded in 1976, EPPC was one of the first neoconservative think tanks to combine free trade policies with conservative Christian social values. EPPC’s mission is to “apply the riches of the Jewish and Christian traditions to contemporary questions of law, culture, and politics” (EPPC n.d.). As one journalist describes it, the EPPC seeks to inject “the nation’s most significant media, political, legal, and educational institutions” with “cosmological certitudes about the fixed nature of God’s creation” (Schwartz 2021). In the organization’s 2022 Annual Report, EPPC’s president Ryan T. Anderson celebrated the organization’s work ending abortion and laid out a plan to combat the “sexual and technological revolutions [that] threaten family formation” and undermine the “family’s capacity to...uphold our nation’s founding tradition—to say nothing of raising citizens for the Kingdom of God” (Anderson 2022, 3). The EPPC takes

¹⁷ Compiled from 990 tax records by Ralph Wilson, Corporate Genome Project, February 2024.

positions against so-called “gender ideology” and promotes parental rights and school choice. Several Catholic conservative activists sit on the board of directors, including Leonard Leo.

It is not surprising, therefore, that EPPC has played a role in advancing the culture-war backlash against higher education. For example, EPPC has published several pieces on CRT, including many celebrating and defending DeSantis’s educational policies. The EPPC also houses the Education and American Ideals program, premised on the notion that America’s “founding ideals” are under threat making it necessary to transform education to “build and sustain a society...in which the traditional American way of life thrives” (EPPC n.d. a., 15). As senior fellow at the Education and American Ideals, Stanley Kurtz has criticized various efforts to write civics curriculum—even those spearheaded by ALEC—as not doing enough to clamp down on an “excess of woke ideology” (Kurtz 2020). He has also authored several model bills. In 2016, Kurtz partnered with the libertarian Goldwater Institute to write the “Campus Free Speech Act,” deregulating hate speech in higher education and punishing disruptive student protests (Wilson and Kamola 2021, 102–5). In February 2021, with the National Association of Scholars, he authored the “Partisanship Out of Civics Act,” which seeks to prevent students from “lobbying for legislation at the local, state, or federal level, or in social or public policy advocacy” as part of class projects (Kurtz 2021, B[3]). This model legislation was adopted almost verbatim by the Manhattan Institute’s anti-CRT model bill, introduced at the ALEC “annual forum to swap rightwing law-making proposals” (Lehrer-Small 2023).¹⁸

Kurtz is also the lead author of the General Education Act (GEA), a model bill co-written with the Civics Alliance (National Association of Scholars) and the James Martin Center. This bill provides a template for creating new Schools of General Education at public universities designed to remove the teaching of general education requirements from existing departments. The newly created Schools of General Education would teach core classes based on a mandatory Great Books and Western Civilization curriculum (Wilson 2023). The bill would create a parallel university outside of faculty control, with a curriculum determined by legislation and with faculty appointments made by the dean, without faculty input (Kurtz, Robinson, and Randall).

¹⁸ Compare Kurtz 2021, B(3–4) to Copland 2021, Section 3: A.1.

Kurtz clarifies that the GEA is specifically designed to “restore the history and great works of America and the West to the place of honor they once enjoyed at our colleges and universities.” He posits that traditional education has been thwarted by “illiberal academics [who have] abused the tenure system to entrench a political and intellectual monopoly” (Kurtz 2023).

The EPPC has received \$7.9 million from fourteen of the twenty-five funds and foundations listed in Appendix 2. In addition to \$1 million from DonorsTrust, EPPC has also received \$3.1 million from the 85 Fund. Formerly the Judicial Education Project, the 85 Fund is controlled by Leonard Leo, a conservative Catholic activist. Leo has served in a leadership capacity at the Federalist Society, the Judicial Crisis Network, Americans for Prosperity, and the Teas Party Patriots, and has received more than a billion dollars from megadonor funders to push American politics and jurisprudence in a rightward direction (Fuchs and Przybyla 2023; Levine and Massoglia 2020; Kroll, Bernstein, and Marritz 2023).

Higher Education Governance Think Tanks

Like the Martin Center, other think tanks funded by conservative megadonors have focused on issues pertaining to higher education in general, and civics curriculums in particular. The ACTA, for example, advocates for greater board control in the governance of academic institutions, making it possible to push universities to the right.¹⁹

American Council of Trustees and Alumni (ACTA)

ACTA champions a classical core curriculum in higher education, with an emphasis on preparing students for the labor force. It regularly uses culture-war rhetoric to portray faculty as responsible for universities supposedly deviating from this core mission. As one journalist summarized, ACTA is preoccupied with “the primacy of trustee authority in saving colleges from their own professors and leaders” (Stripling 2016).

ACTA was founded in 1995 during an earlier round of campus culture-war politics. First established as the National Alumni Forum, the organization helped donors direct donations in

¹⁹ The Martin Center regularly cites ACTA in its own publications, including one post in which the ACTA president praises the formation of the School of Civic Life and Leadership at UNC (Robinson 2023a).

ways that supported their political priorities and circumvented “political correctness” (Staff 1997). The founders, Anne D. Neal and Lynne Cheney, built the organization to weaken the influence of professors whom they believed were “indoctrinating their students with liberal views,” arguing that trustees, presidents, administrators, parents, and alumni should be given a greater say in university governance (Stripling 2016).

In advocating greater board authority, it is not surprising that ACTA has been particularly active on the issue of accreditation, arguing that accrediting agencies unduly constrain board governance. Its “signature publication” (ACTA n.d.), “Governance for a New Era,” lays out in no uncertain terms that “[t]rustees should take a more active role in reviewing and benchmarking the work of faculty and administrators and monitoring outcomes” (Schmidt et. al. 2014, 2).²⁰ The report describes trustees as “primary guardians of educational quality and excellence.” Conceding that faculty may have some oversight over certain curricular issues, the report nonetheless concludes that “academic excellence is an issue that transcends academic departments and their particular interests, and faculty cannot be the last and determining voice regarding academic value, academic quality, and academic strategy” (Schmidt et. al. 2014, 9). The report recommends reducing the power of accrediting agencies, thereby granting trustees greater latitude to make decisions about how academic institutions are governed (Schmidt et. al. 2014, 16). These conclusions were previewed in the 2013 report “Accreditation: A Call to Action for College Trustees,” which similarly criticized accreditation as expensive, time-consuming, and “interfer[ing] with trustee rights” (ACTA 2013, 4).

More recently, ACTA has advocated for accreditation reform in its lobbying material, recommending “a consumer-friendly expedited alternative for reaccreditation” (ACTA 2020). It has celebrated DeSantis’s efforts to circumvent accreditors (see Chapter 6) as well as his appointment of partisan activists, including Christopher Rufo, to the board at New College (Poliakoff and McGuire 2023). Both past and current ACTA presidents have served as the Republican appointees on the National Advisory Committee on Institutional Quality and Integrity (NACIQI), which advises the Secretary of Education on issues about accreditation.

²⁰ For a critique of the ACTA report from the AAUP, see Fichtenbaum 2015.

In addition to advocating for greater trustee control through its reports and publications, ACTA maintains a network of over 23,000 alumni and board members at 1,300 institutions (ACTA 2023, 2). It also trains current board members. For example, in 2022 it hosted trustee orientations for new members of the Virginia Board of Visitors after Governor Youngkin's election, as well as the board at Ohio State University and the board and chancellor of UNC-Chapel Hill. ACTA celebrated the UNC board's approval of the School of Civic Life and Leadership, noting that two months prior ACTA had used its training to point out that the school "has no requirement for the study of American history and government and that greater intellectual diversity is needed on campus" (ACTA 2023, 15). When the president of UNC's accreditor, the Southern Association of Colleges and Schools Commission on Colleges (SACS), raised concern about the possibility of political interference by the UNC board, ACTA president—and NACIQI member—Michael Poliakoff issued a letter calling on NACIQI to investigate SACS (Editorial Board 2023).

ACTA is primarily engaged behind the scenes in technical issues of university governance and accreditation. In this capacity, ACTA has helped normalize the claim that trustees should govern colleges and universities more-or-less unilaterally, without a robust system of shared governance that includes faculty (AAUP 1966). It is not surprising, therefore, that ACTA is a member of SPN and funded by many of the same foundations and trusts that support other think tanks engaged in weakening faculty governance and university autonomy. While ACTA argues that trustees should have greater oversight over the governance of universities, the National Association of Scholars (NAS) works to develop and promote the conservative curricula that ACTA would like to see boards impose.

National Association of Scholars (NAS)/Civics Alliance

NAS was founded in 1987 by Stephen H. Balch, who also previously served as director of ACTA (1994–2011), the free-market advocacy group Philadelphia Society (2002–2006), and the Bradley Foundation-funded Institute for the Study of Western Civilization at Texas Tech University

(2012–18).²¹ NAS is an organization for conservative faculty that regularly publishes reports, journal articles, and other pieces promoting the teaching of Western civilization while opposing affirmative action, critical race theory, and diversity initiatives (NAS 2024).

NAS organizes the Civics Alliance, a project premised on the claim that civics education in K-12 and higher education has become a “recruitment tool of the progressive left,” as exemplified in the adoption of the *1619 Project* (Civics Alliance n.d. b.). The Civics Alliance brings together educators and policymakers to promote a civics education that presents America as embodying “an exceptional heritage of freedom” (Civics Alliance n.d. a.). In reality, Civics Alliance is populated by members of conservative and libertarian think tanks. Coalition members include Christopher Rufo (MI), Keith Whitaker (NAS), Ryan Williams (Claremont), Peter Wood (NAS), Jenna Robinson (Martin Center), Stanley Kurtz (EPPC), Scott Yenor (Claremont), George Leef, (Martin Center), and dozens of other individuals affiliated with right-wing publications, think tanks, foundations, or conservative activist organizations.²² The Civics Alliance monitors state-level legislation pertaining to K-12 civics curriculum. In addition to the GEA (described above), the Civics Alliance has written seventeen model bills focused on K-12 and higher education, including legislation giving states greater “accreditation autonomy,” requiring “syllabus transparency,” and mandating “intellectual diversity” (Civics Alliance n.d.).²³

Between 2020 and 2022, NAS has received \$2.7 million from eleven of the top twenty-five donors listed in Appendix 2, including the Sarah Scaife Foundation (\$7.2 million) and the Bradley Foundation (\$2.9 million) (DeSmog NAS).

In addition to sharing funders, sitting on shared boards, and circulating each other’s content, many of the think tanks explored in this chapter are also institutionally connected through the SPN.

²¹ Compiled from 990 tax records by Ralph Wilson, Corporate Genome Project, February 2024.

²² Others on the list include Robert Luebke (John Locke Foundation), Michael Anton (Claremont), Max Eden (American Enterprise Institute), John Fonte (Hudson Institute), Jamie Gass (Pioneer Institute), Claudine Geoghegan (No Left Turn In Education), Katharine Gorka (Heritage Foundation), Mary Grabar (The Alexander Hamilton Institute for Western Civilization), John Hendrickson (Tax Education Foundation of Iowa), Nicole Neily (Parents Defending Education), Robert Paquette (Alexander Hamilton Institute), Matthew Peterson (Claremont), Terry Stoops (John Locke Foundation), and dozens more (Civics Alliance n.d. a).

²³ See website sidebar for links to model bills.

The State Policy Network (SPN)

Seven of the organizations discussed in this report are members of SPN (see Table 2.2). SPN creates strategic coordination between national think tanks—such as the Heritage Foundation and ALEC—and state-level think tanks, such as TPPF and IFF. Started by ALEC in 1992, SPN originally included only a small handful of think tanks but rapidly expanded during the mid-2000s. By 2022, SPN claimed sixty-three state-level think tanks partners (at least one in each state), more than ninety “national partners,” and more than sixty-six “state partners in key capacities like litigation, advocacy, and investigative journalism” (SPN 2023, 5).

The SPN specializes in connecting think tanks with donors and helping state-level think tanks implement local legislative strategies developed at the federal level. At the 2013 annual meeting in Oklahoma City, SPN president Tracie Sharp described SPN as an IKEA catalog of policy proposals and lobbying support. As summarized by Jane Mayer, Sharp told the audience that “instead of pictures of furniture arranged in rooms,” the SPN offers “state policy projects that align with the group’s agenda,” including opposition to “President Obama’s health-care program and climate-change regulations,” the reduction of “union protections and minimum wages,” cuts to “taxes and business regulations,” additional “voting restrictions,” and privatizing education” (Mayer 2013). While national think tanks work to shape the national conversation, state-level think tanks take up such issues with local media, legislators, and publics. In so doing they produce state-specific content for state-specific audiences in coordination with national think tanks and activist donors.

The composition of SPN’s board reflects their primary role of bringing donors together with state and national think tanks. The board includes representatives from conservative megadonors, including DonorsTrust and Donors Capital Fund, the Commonwealth Foundation, the JM Foundation, the John William Pope Foundation, the Adolph Coors Foundation, Philanthropy Roundtable, the Roe Foundation, and Charles Koch’s Stand Together Foundation. The remaining board positions consist of representatives from think tanks, including the American Institute for Full Employment, the Bill of Rights Institute, and the Heritage Foundation (State Policy Network 2023, 30). The SPN also provides financial support

to its member think tanks. For example, between 2020 and 2022 it gave funding to IFF (\$30,000) and TPPF (\$160,000).²⁴

Table 2.2: Think Tank Partnerships with SPN

Think Tank	Partner of SPN?
American Council of Trustees and Alumni	Yes
American Legislative Exchange Council (ALEC)	Yes
Center for Renewing America/Conservative Partnership Institute	No
Claremont Institute	No
Ethics and Public Policy Center	No
Heritage Foundation	Yes
Idaho Freedom Foundation	Yes
James G. Martin Center for Academic Renewal	Yes
Manhattan Institute for Policy Research	Yes
National Association of Scholars/Civics Alliance	No
Texas Public Policy Foundation	Yes

Source: The State Policy Network Organization Directory, accessed December 1, 2023, <https://spn.org/directory/?print=1>).

SPN member think tanks tend to focus on free market and libertarian economic policies. As such, these think tanks generally view educational culture-war issues in terms of individual freedom and parental choice, which allows them to make the case for defunding and privatizing educational institutions. The four non-SPN members discussed in this report (CRA, Claremont, EPPC, and NAS) are more closely aligned with the MAGA, religious, or national conservatives,

²⁴ Compiled from 990 tax records by Ralph Wilson, Corporate Genome Project, February 2024.

which focus on civics education, preserving a mythical notion of the American founding, and advocating a return to curriculums based on “the Great Books” and Western civilization.

SPN has received \$41.8 million from fifteen of the twenty-five donors listed in Appendix 2. SPN has also received repeated large contributions over many years from major conservative megadonors, including \$48.8 million from DonorsTrust (2002–22), \$10 million from the Searle Freedom Trust (2004–21), \$9.5 million from the Row Foundation (1998–2022), \$4 million from the Walton Family Foundation (2014–21), \$2.2 million from the Scaife Foundation (2016–21), and \$2.1 million from the Bradley Foundation (2005–21).²⁵

* * *

As demonstrated in this chapter, the think tanks mobilizing both a culture-war backlash against education and the legislative response to this echo-chamber-induced “crisis” are fundamentally connected. They share personnel, board members, platforms, organizational infrastructures, messaging, and funders. They regularly publish material condemning CRT and DEI, while generally portraying American education as hostile to free speech, parental rights, personal liberty, and supposedly “true” ideas of race, gender, and the American founding. These groups represent educators as beholden to “wokism.” Think-tank fellows write reports with citations drawn primarily from publications written by other think-tank fellows. They participate in each other’s public events. They quote one another in columns, media appearances, and legislative testimonies. The think tanks provide an endless stream of talking heads to appear on Fox News and other right-wing media outlets.

The material produced within this think-tank echo chamber has advanced the seemingly self-evident narrative of American higher education in crisis. The crisis they define is not funding cuts, adjunctification, or corporate influence, but rather “wokism,” CRT, DEI, and the prevalence of professors who hate the United States. This echo chamber, in other words, produces the donor-preferred narrative that American education needs to refocus on “Western

²⁵ These numbers come from the donor’s tax documents (990s) compiled by DeSmog (DeSmog SPN).

civilization,” individual freedom, personal responsibility, and educational choice. The think tanks also posit that the application of libertarian and conservative talking points to education, and society more generally, is the best way to address issues of poverty, racism, and other social ills. As numerous scholars of race, gender, and American history, people who have devoted their teaching and research to these issues, have made clear, however, the individualistic understandings of social life advanced by megadonors and their think tanks are fundamentally insufficient as responses to systemic problems. In seeking to reclaim higher education from faculty who understand the world differently than they do, this think-tank echo chamber regularly mischaracterizes, or simply ignores, their decades of careful scholarship. Instead, it has seized on the racial justice movement and increased LGBTQ+ visibility as providing opportunities to delegitimize and villainize educators with whom they disagree, proposing legislation to silence them.

As demonstrated in Part II, during the 2021, 2022, and 2023 legislation sessions, this integrated and well-funded network of think tanks proved incredibly effective at introducing, advocating, and passing legislation that undermined academic freedom and weakened university governance.

Works Cited

- Allison, Bill. 2021. “Trump Acolytes Craft Parallel GOP Universe So Trumpism Lives On,” *Detroit News*, May 29, 2021.
- AAUP. 1966. *Statement on Government of Colleges and Universities*. American Association of University Professors.
- American Council of Trustees and Alumni (ACTA). 2023. “2022 Annual Report.” American Council of Trustees and Alumni (website). Accessed December 20, 2023. <https://www.goacta.org/wp-content/uploads/2023/04/2022-Annual-Report.pdf>.
- . 2020. “Accreditation: What it is, What’s Wrong with It, and How to Fix It.” American Council of Trustees and Alumni. Accessed December 20, 2023.
- . 2013. “Accreditation: A Call to Action for College Trustees.” American Council of Trustees and Alumni (website). October 14, 2023. https://www.goacta.org/wpcontent/uploads/ee/download/accreditation_guide.pdf. <https://www.goacta.org/wp-content/uploads/2020/03/Accreditation-Action-Agenda.pdf>.
- . n.d. “Trustees.” American Council of Trustees and Alumni (website). Accessed December 20, 2023. <https://www.goacta.org/audience/trustees/>.
- Anderson, Ryan T. 2002. “Letter from the President: 2022 Annual Report.” Ethics and Public

- Policy Center (website). Accessed January 3, 2024. https://eppc.org/wp-content/uploads/2023/04/EPPC_2022_AnnualReport_final_web.pdf.
- Burke, Lindsey M. 2022. "Department of Education." In *Mandate for Leadership: The Conservative Promise*, edited by Paul Dans and Steven Groves. Washington, D.C.: Heritage Foundation.
- Butcher, Jonathan. 2022. *Splintered: Critical Race Theory and the Progressive War on Truth*. New York: Bombardier Books.
- Center for American Education. n.d. "Research." Idaho Freedom Foundation (website). Accessed December 18, 2023. <https://idahofreedom.org/cae/research/>.
- . n.d. a. "Research Category—National Research." Idaho Freedom Foundation (website). Accessed October 17, 2023. https://idahofreedom.org/cae/research/?_research=national-research.
- Center for the American Way of Life. n.d. "Reports on Wokeness in Education." Claremont Institute (website). <https://dc.claremont.org/research/reports-on-wokeness-in-universities>.
- Center for Renewing America (CRA). n.d. "Our Mission." Center for Renewing American (website). Accessed December 13, 2023. <https://americarenewing.com>.
- . 2021. "Model School Board Language to Prohibit Critical Race Theory." Citizens for Renewing America (website). June 21, 2021. Accessed April 20, 2023 (prior to December 13, 2023 update). <https://citizensrenewingamerica.com/issues/model-school-board-language-to-prohibit-critical-race-theory-2/>.
- Civics Alliance. n.d. "Campus Intellectual Diversity Act." Civics Alliance (website). Accessed November 28, 2023. <https://civicsalliance.org/campus-intellectual-diversity-act/>.
- . n.d. a. "Our Coalition." Civics Alliance (website). Accessed November 28, 2023. <https://civicsalliance.org/our-coalition/>.
- . n.d. b. "Our Mission." Civics Alliance (website). Accessed November 28, 2023. <https://civicsalliance.org/our-mission/>.
- Claremont Institute. 2024. "Biennial Report: 2022–2023." Claremont Institute (website). Accessed January 29, 2024. https://www.claremont.org/wp-content/uploads/2024/01/Claremont_Institute_2022-2023_Biennial_Report.pdf.
- Cockett, Richard. 1995. *Thinking the Unthinkable*. London: Fontana.
- Confessore, Nicholas. 2024. "'America Is Under Attack': Inside the Anti-D.E.I. Crusade." *New York Times*, January 20, 2024.
- Conservative Partnership Institute (CPI). n.d. "About: We Provide the Support Conservatives Need." Conservative Partnership Institute (website). Accessed December 13, 2023. <https://www.cpi.org/about/>.
- Copland, James. 2021. "How to Regulate Critical Race Theory in Schools: A Primer and Model Legislation." Manhattan Institute (website). August 2021. <https://media4.manhattan-institute.org/sites/default/files/copland-crt-legislation.pdf>.
- Daley, David. 2017. *Ratf*ked: The True Story Behind the Secret Plan to Steal America's Democracy*. New York: Liveright Publishing.
- Dans, Paul, and Steven Groves, eds. 2022. *Mandate for Leadership: The Conservative Promise*. Washington, D.C.: Heritage Foundation.

- DeSmog. n.d. "National Association of Scholars." DeSmog (website). Last updated February 2023. <https://www.desmog.com/national-association-scholars/>.
- . n.d. "State Policy Network." DeSmog (website). Accessed December 1, 2023. <https://www.desmog.com/state-policy-network/>.
- . n.d. "Texas Public Policy Foundation." DeSmog (website). Accessed October 24, 2023. <https://www.desmog.com/texas-public-policy-foundation/>.
- Dickey, Colin. 2022. "The New Conservative Books Are Angry. But Why Are They So Boring?" *Politico*, March 6, 2022.
- Documented. 2022. "Conservative Partnership Institute: The Trump-aligned \$45M Institution Creating "America First" Political Infrastructure," July 10, 2022, updated December 12, 2022, <https://documented.net/investigations/conservative-partnership-institute>.
- Editors of *The American Mind*. 2021. "A Statement Regarding 'Critical Race Theory.'" *The American Mind*, The Claremont Institute (website). April 21, 2021. <https://americanmind.org/salvo/a-statement-regarding-critical-race-theory/>.
- Editorial Board of the *Wall Street Journal*. 2023. "Questions for UNC's Accreditor." *Wall Street Journal*, February 28, 2023.
- . 2023a. "UNC Takes on the University Echo Chamber." *Wall Street Journal*, January 26, 2023.
- Education and Workforce Development Taskforce. 2022. "Free Speech in Higher Education Act." American Legislative Exchange Council (website). December 23, 2022. <https://alec.org/model-policy/free-speech-in-higher-education-act/>.
- . 2021. "American Civil and History Act." American Legislative Exchange Council (website). August 25, 2021. <https://alec.org/model-policy/american-civics-and-history-act>.
- Ethics and Public Policy Center (EPPC). n.d. "About." Ethics and Public Policy Center (website). Accessed November 28, 2023. <https://eppc.org/about/>.
- . n.d. a. "2022 Annual Report." Ethics and Public Policy Center (website). Accessed January 3, 2024. https://eppc.org/wpcontent/uploads/2023/04/EPPC_2022_AnnualReport_final_web.pdf.
- Fichtenbaum, Rudy H. 2015. "From the President: Governance for a New Era." *Academe*, January-February, 2015.
- Fuchs, Hailey, and Heidi Przybyla. 2023. "Leonard Leo Firm Received \$21M From Leo-linked Group." *Politico*, November 28, 2023.
- Gillen, Andrew. 2023. "DeSantis Won the Accreditation Fight. What's Next?" *Minding the Campus* (blog), National Association of Scholars (website). September 13, 2023. <https://www.mindingthecampus.org/2023/09/13/desantis-won-the-accreditation-fight-whats-next/>.
- Gold, Matea. 2014. "In N.C., Conservative Donor Art Pope Sits at Heart of Government He Helped Transform." *Washington Post*, July 19, 2014.
- Gonzalez, Mike. 2021. *BLM: The Making of a New Marxist Revolution*. New York: Encounter Books.
- Gonzalez, Mike, and Katharine C. Gorka. 2022. "How Cultural Marxism Threatens the United States—and How Americans Can Fight It." The Heritage Foundation (website). November 14, 2022. <https://www.heritage.org/sites/default/files/2022-11/SR262.pdf>.
- Heritage Action for America. n.d. "Save Our Schools: Resources." Save our Schools (website).

- Accessed February 9, 2024. <https://saveourschools.com/resources>.
- Heritage Foundation. 2024. "Rejecting Racism in Higher Education." The Heritage Foundation (website). January 24, 2024. <https://www.heritage.org/model-legislation/rejecting-racism-higher-education>.
- . 2021. *Critical Race Theory: Knowing it When You See it and Fighting it When You Can*. Washington, D.C.: The Heritage Foundation.
- . n.d. "Model Legislation: The Given Name Act." The Heritage Foundation (website). Accessed April 16, 2024. <https://www.heritage.org/model-legislation/the-given-name-act#>.
- . n.d. a. "Model School Board Policy on Parental Rights in Education and Safety, Privacy, and Respect for All Students in the District." The Heritage Foundation (website). Accessed January 29, 2024. <https://www.heritage.org/model-legislation/model-school-board-policy-parental-rights-education-and-safety-privacy-and-respect> (last accessed).
- Hertel-Fernandez, Alexander. 2019. *State Capture: How Conservative Activists, Big Business, and Wealthy Donors Reshaped the American States—and the Nation*. New York: Oxford University Press.
- Hertel-Fernandez, Alexander, Theda Skocpol, and Jason Sclar. 2018. "When Political Mega-Donors Join Forces: How the Koch Network and the Democracy Alliance Influence Organized US Politics on the Right and Left." *Studies in American Political Development* 32, no. 2: 127–65.
- Hirsh, Michael. 2023. "Inside the Next Republican Revolution." *Politico*, September 19, 2023.
- Holmes, Brian. 2021. "Boise State Alumna and a Tenured Professor React to Scott Yenor's Controversial Statements," KTVB7, December 3, 2021. <https://www.ktvb.com/article/news/local/208/boise-state-students-professors-react-scott-yenor-controversial-statements/277-4d53a6bb-d473-4c13-9f9e-900247073046>.
- Hoplin, Nicole, and Ron Robinson. 2008. *Funding Fathers: The Unsung Heroes of the Conservative Movement*. Washington, D.C.: Regnery Publishing.
- Hussain, Murtaza. 2021. "Secret Donors to Nonprofit Pushing Trump's 'Big Lie' Election Conspiracy Revealed." *The Intercept*, August 7, 2021.
- Idaho Freedom Foundation (IFF). 2022. "IFF Education Policy Director Anna Miller Testifies at Education Indoctrination Task Force Meeting." Idaho Freedom Foundation (website). October 26, 2022. <https://idahofreedom.org/video/iff-education-policy-director-anna-miller-testifies-at-education-indoctrination-task-force-meeting/>.
- . n.d. "About." Idaho Freedom Foundation (website). Accessed December 18, 2023. <https://idahofreedom.org/about/>.
- . n.d. a. "Idaho Education Index." Idaho Freedom Foundation (website). Accessed January 29, 2024. <https://idahofreedom.org/education-metric/>.
- . n.d. b. "Idaho K-12 LEAD (Liberty in Education and Academic Development) Map." Idaho Freedom Foundation (website). Accessed December 18, 2023. <https://idahofreedom.org/lead-map/>.
- Jafar, Afshan, Henry Reichman, Davarian Baldwin, Emily M.S. Houh, Anil Kalhan, Charles Toombs, and Brian Turner. December 2023. *Report of a Special Committee: Political Interference and Academic Freedom in Florida's Public Higher Education System*. American Association of University Professors.

- James G. Martin Center for Academic Renewal. 2024. "About." James G. Martin Center for Academic Renewal (website). Accessed January 29, 2024. <https://www.jamesgmartin.center/about/>.
- Jones, Perrin W. 2023. "The True Story of UNC-Chapel Hill's New School." The James G. Martin Center for Academic Renewal (website). May 22, 2023. <https://www.jamesgmartin.center/2023/05/the-true-story-of-unc-chapel-hills-new-school/>.
- Kamola, Isaac. 2024. "A Koch-Funded Racial Backlash: Understanding the Critical Race Theory Moral Panic (in Four Acts)." In *The Right to Learn: The War on Higher Education in a Multicultural Democracy*, ed. by Jennifer Ruth Valerie Johnson, and Ellen Schrecker. Boston: Beacon Press, 32–46.
- . 2019. "Dear Administrators: To Protect Your Faculty from Right-Wing Attacks, Follow the Money." *Journal of Academic Freedom* 10: 1–24.
- Kissel, Adam. 2022. "The Smart Lawmaker's Guide To Writing Anti-Critical Race Theory Laws That Will Stand Up In Court." *The Federalist*, December 13, 2022. <https://thefederalist.com/2022/12/13/the-smart-lawmakers-guide-to-writing-anti-critical-race-theory-laws-that-will-stand-up-in-court>.
- Kissel, Adam, and Timothy J. Rosenberger, Jr. 2023. "The Politicization of Higher Education Accreditation." Texas Public Policy Foundation (website). August 2023. <https://www.texaspolicy.com/wp-content/uploads/2023/08/2023-08-NGT-PoliticizationofHigherEducationAccreditation-KisselRosenberger.pdf>.
- Kotch, Alex. 2023. "How Fidelity, Schwab, and Vanguard Fund Hate Groups." *New Republic*, August 9, 2023.
- Kroll, Andy. 2013. "The Dark-Money ATM of the Conservative Movement." *Mother Jones*, February 5, 2013.
- Kroll, Andy, Andrea Bernstein, and Ilya Marritz. 2023. "We Don't Talk About Leonard: The Man Behind the Right's Supreme Court Supermajority." *ProPublica*, October 11, 2023.
- Kromm, Chris. 2011. "The Art Pope Empire: Media Outlets, Think Tanks and Election Machines." *Indy Week*. March 9, 2011. <https://web.archive.org/web/20160306034607/http://www.indyweek.com/indyweek/the-art-pope-empire-media-outlets-think-tanks-and-election-machines/content?oid=2140145>.
- Kurtz, Stanley. 2023. "Transformative Legislation for Higher Education." *National Review*, November 13, 2023.
- . 2021. "The Partisanship Out of Civics Act." National Association of Scholars (website). February 15, 2021. <https://www.nas.org/blogs/article/the-partisanship-out-of-civics-act>.
- . 2020. "Beware: New Civics Mandates Will Be Woke." *National Review*, December 28, 2020.
- Kurtz, Stanley, Jenna Robinson, and David Randall. "Model Legislation: General Education Act." Civics Alliance (website). Accessed January 3, 2024. <https://civicsalliance.org/general-education-act/>.
- Leef, George. 2022. "Time to Rethink University Accreditation." The James G. Martin Center (website). November 4, 2022. <https://www.jamesgmartin.center/2022/11/time-to-rethink-university-accreditation/>.
- Lehrer-Small, Asher. 2023. "The Conservative Scholar Who Lit a Match to the US Right's Education Wars." *The Guardian*, May 5, 2023.

- Leonard, Christopher. 2020. *Kochland: The Secret History of Koch Industries and Corporate Power in America*. New York: Simon & Schuster.
- Levine, Sam, and Anna Massoglia. 2020. "Conservative Group Fighting to Restrict Voting Tied to Powerful Dark Money Network." *The Guardian*, May 27, 2020.
- Maitra, Sumantra. 2021. "Did You Know? State Laws Against Critical Race Theory." The James G. Martin Center for Academic Renewal (website). July 15, 2021. <https://www.jamesgmartin.center/2021/07/did-you-know-state-laws-against-critical-race-theory/>.
- Mayer, Jane. 2017. *Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right*. New York: Anchor Books.
- . 2013. "Is IKEA the New Model for the Conservative Movement?" *New Yorker*, November 15, 2013.
- Miller, Anna K. 2021. "The Higher Education Battle in Idaho: Diversity, Equity and Inclusion Smokescreens." The James G. Martin Center for Academic Renewal (website). September 10, 2021. Available at: <https://www.jamesgmartin.center/2021/09/the-higher-education-battle-in-idaho-diversity-equity-and-inclusion-smokescreens/>.
- Miller, Anna K., and Scott Yenor. n.d. "The Sex-Ed Industrial Complex: How Conservative School Districts Peddle Radical Sex Education to Children." Claremont Institute (website). Accessed January 29, 2024. <https://idahofreedom.org/wp-content/uploads/2023/03/The-Sex-Ed-Industrial-Complex-FINAL.pdf>.
- National Association of Scholars (NAS). 2024. "All Reports and Projects by the National Association of Scholars." National Association of Scholars (website). Updated March 19, 2024. <https://www.nas.org/reports>.
- Nonprofit Explorer. 2024. "Conservative Partnership Institute." ProPublica (website). Updated March 4, 2024. <https://projects.propublica.org/nonprofits/organizations/821470217>.
- . 2024a. "Heritage Foundation." Updated April 9, 2024. <https://projects.propublica.org/nonprofits/organizations/237327730>.
- Pender, Abby. 2023. "Emails Reveal Trustee's Communication with Wall Street Journal Prior to Resolution Approval." *Daily Tar Heel*, February 15, 2023. <https://www.dailytarheel.com/article/2023/02/university-board-of-trustees-school-of-civil-life-and-leadership-wall-street-journal-emails>.
- Peters, Jeremy W., and Maggie Haberman. 2017. "Jim DeMint Is Said to Be Out at Heritage Foundation." *New York Times*, April 28, 2017.
- Pettit, Emma. 2023. "New College of Florida's Board Starts to Dismantle Gender-Studies Program." *Chronicle of Higher Education*, August 10, 2023.
- . 2021. "'Anti-American,' Pushing 'Marxism,' and More: Do You Recognize Your College Here?" *Chronicle of Higher Education*, April 5, 2021.
- Publius Decius Mus. 2016. "The Flight 93 Election." *Claremont Review of Books*, September 5, 2016.
- Poliakoff, Michael B., and Steven McGuire. 2023. "DeSantis Appointees Could Transform New College for the Better." *Tallahassee Democrat*, January 22, 2023.
- Quinn, Ryan. 2023. "Confusion Over a New Unit at Chapel Hill." *Inside Higher Ed*, February 7, 2023.

- Roberts, Kevin. 2022. "The Fight for the Next Generation." In *The Critical Classroom: How Critical Race Theory Undermines Academic Excellence and Individual Agency in Education*, edited by Lindsey M. Burke, Jonathan Butcher and Jay P. Greene, 1–3. Washington, D.C.: Heritage Foundation.
- Robinson, Jenna A. 2023. "The Media Take On the UNC Board." The James G. Martin Center for Academic Renewal (website). March 20, 2023. <https://www.jamesgmartin.center/2023/03/the-media-take-on-the-unc-board/>.
- . 2023a. "At UNC, More Good News on Free Expression." The James G. Martin Center for Academic Renewal (website). January 30, 2023. <https://www.jamesgmartin.center/2023/01/at-unc-more-good-news-on-free-expression/>.
- Rufo, Christopher F. 2023. "A Model for School Practices Relating to Sexuality and Gender." Manhattan Institute (website). February 2023. <https://media4.manhattan-institute.org/sites/default/files/model-for-school-practices-relating-to-sexuality-and-gender.pdf>.
- . 2023a. "Shut Down Activist Academic Departments." *City Journal*, March 15, 2023. <https://www.city-journal.org/article/shut-down-activist-academic-departments>.
- . 2021. "What Critical Race Theory is Really About," *New York Post*, May 6, 2021.
- . 2021a. "Critical Race Theory Would Not Solve Racial Inequality: It Would Deepen It." The Heritage Foundation (website). March 23, 2021. <https://www.heritage.org/progressivism/report/critical-race-theory-would-not-solve-racial-inequality-it-would-deepen-it>.
- . 2021b. "Conservatives and Non-Woke Liberals Must Draw a Line in the Sand Against Racialized Indoctrination." *The American Mind*, The Claremont Institute (website). April 21, 2021. <https://americanmind.org/salvo/standing-against-critical-race-theory/>.
- Rufo, Christopher F., James R. Copland, and John Ketcham. 2021. "A Model for Transparency in School Training and Curriculum." Manhattan Institute (website). December 1, 2021. https://media4.manhattan-institute.org/sites/default/files/MI_rufo_copland_ketcham_model_legislation.pdf.
- Rufo, Christopher F., Ilya Shapiro, and Matt Beienburg. 2023. "Abolish DEI Bureaucracies and Restore Colorblind Equality in Public Universities" *Issue Brief*. Manhattan Institute (website). January 2023. https://media4.manhattan-institute.org/sites/default/files/model_dei_legislation013023.pdf.
- Schmidt, Benno C., et al. 2014. "Governance for a New Era: A Blueprint for Higher Education Trustees." American Council of Trustees and Alumni (website). August 2014. https://www.goacta.org/wp-content/uploads/ee/download/governance_for_a_new_era.pdf.
- Schwartz, Peter Hammond. 2021. "Originalism Is Dead. Long Live Catholic Natural Law." *New Republic*, February 3, 2021.
- Simon, Chloe. 2021. "A Former Trump Appointee is Linked to 'Critical Race Theory' Legislation in Over 20 States." Media Matters for America (website). June 25, 2021. <https://www.mediamatters.org/critical-race-theory/former-trump-appointee-linked-critical-race-theory-legislation-over-20-states>.
- Sollenberger, Roger. 2023. "The Secret Megadonor Behind the MAGA Movement's 'Nerve Center.'" *Daily Beast*, November 24, 2023.
- SourceWatch. n.d. "Conservative Partnership Institute." The Center for Media and Democracy

- (website). Updated March 13, 2024. [https://www.sourcewatch.org/index.php?title=Conservative Partnership Institute](https://www.sourcewatch.org/index.php?title=Conservative%20Partnership%20Institute).
- . n.d. a. "Idaho Freedom Foundation." The Center for Media and Democracy (website). Last edited June 21, 2022. [https://www.sourcewatch.org/index.php?title=Idaho Freedom Foundation](https://www.sourcewatch.org/index.php?title=Idaho%20Freedom%20Foundation).
- . n.d. b. "Encounter Books." The Center for Media and Democracy (website). Last edited March 23, 2021. [https://www.sourcewatch.org/index.php?title=Encounter Books](https://www.sourcewatch.org/index.php?title=Encounter%20Books).
- Special Committee. April 2022. *Governance, Academic Freedom, and Institutional Racism in the University of North Carolina System*. American Association of University Professors.
- Staff. 1997. "National Alumni Forum to Change Name." *Chronicle of Higher Education*, October 17, 1997.
- State Policy Network (SPN). 2023. "2022 State Policy Network Annual Report." Accessed December 1, 2023. <http://spn.org/wp-content/uploads/2023/06/2022-SPN-Annual-Report-Web-1.pdf>.
- Steinhauer, Jennifer, and Jonathan Weisman. 2014. "In the DeMint Era at Heritage, a Shift From Policy to Politics." *New York Times*, February 23, 2014.
- Stewart, Katherine. 2023. "The Claremont Institute: The Anti-Democracy Think Tank." *New Republic*, August 10.
- Stripling, Jack. 2016. "A Higher-Ed Needler Finds Its Moment." *Chronicle of Higher Education*, April 10, 2016.
- Sturgis, Sue. 2021. "How Art Pope's Money Shaped UNC's Toxic Debate Over Nikole Hannah-Jones." *Facing South*, July 16, 2021. <https://www.facingsouth.org/2021/07/how-art-popes-money-shaped-uncs-toxic-debate-over-nikole-hannah-jones>.
- Texas Public Policy Foundation. n.d. "Mission." Texas Public Policy Foundation (website). Accessed October 24, 2023. <https://www.texaspolicy.com/about/>.
- Trump, Donald. 2020. "Executive Order on Combating Race and Sex Stereotyping." Trump White House Archives. September 22, 2020. <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.
- Wiener, Don, and Alex Kotch. 2021. "ALEC Inspires Lawmakers to File Anti-Critical Race Theory Bills." *Exposed by CMD*. The Center for Media and Democracy (website). July 27, 2021. <https://www.exposedbycmd.org/2021/07/27/alec-inspires-lawmakers-to-file-anti-critical-race-theory-bills/>.
- Williams, Jonathan, Lee Schalk, and Rose Laoutaris. 2023. "2024 Essential Policy Solutions." American Legislative Exchange Council (website). Accessed December 15, 2023. https://alec.org/wp-content/uploads/2023/11/2024-ALEC-Policy-Solutions_Web.pdf.
- Wilson, John K. 2023. "The Right-Wing Attack on Academia, With a Totalitarian Twist." *Inside Higher Ed*, November 16, 2023.
- . 2022. "Adam Kissel's Totalitarian Turn." *Academe Blog, Academe*. December 19, 2022. <https://academeblog.org/2022/12/19/adam-kissels-totalitarian-turn>.
- Wilson, Ralph, and Isaac Kamola. 2021. *Free Speech and Koch Money: Manufacturing a Campus Culture War*. London: Pluto Press.
- Yenor, Scott. 2017. "Transgender Activists Are Seeking to Undermine Parental Rights." *The Daily Signal*, The Heritage Foundation (website). August 2, 2017. <https://www.dailysignal.com>

[/2017/08/02/transgender-activists-seeking-undermine-parental-rights/](#).

Young, Michael. 2022. "Updated: Glossary of CRT-Related Terms." Center for Renewing America (website). May 4, 2022. <https://americarenewing.com/issues/glossary-of-crt-related-terms/>.

Zerofsky, Elisabeth. 2022. "How the Claremont Institute Became a Nerve Center for the American Right." *New York Times Magazine*, August 3, 2022.

Part 2: The Legislative Attacks on Academic Freedom

Overview

The think tanks described in Part 1 helped foment a culture war backlash against education, creating an echo chamber that delegitimizes scholarship and teaching on race, gender, and critical approaches to American history that they find disagreeable. However, these same think tanks have not stopped at manufacturing outrage over the teaching of ideas they don't like. They have also played an active role in introducing and promoting legislation designed to weaken academic freedom and institutional autonomy. The result has been an interlocking and evolving barrage of legislation designed to remake academic institutions in their image. Based on their hyper-political, selective, and partisan interpretations of what takes place on college campuses, these think tanks—and the donors that fund them—have used political pressure to remake higher education in ways that privilege the ideas they prefer, while restricting the teaching of ideas with which they disagree.

Part 2 identifies five different types of legislation introduced during the 2021, 2022, and 2023 legislative cycles, including bills that ban the teaching of so-called “divisive concepts,” undermine campus diversity, equity, and inclusion (DEI) efforts, weaken tenure, undermine accreditation, and mandate content and “viewpoint diversity.” During these three legislative cycles, Republican state legislatures and governors have introduced more than one hundred and fifty bills, passing twenty-one of them, that explicitly target higher education (see Appendix 1).²⁶

Looking at these five types of legislation helps make sense of the scope of the culture war backlash against higher education, and how it has evolved. The following five chapters demonstrate that, taken together, the bills introduced and passed during the 2021, 2022, and 2023 legislative cycles constitute a multifaceted, evolving, and self-reinforcing attack on academic freedom and university autonomy. During 2021 and 2022 many of the bills introduced

²⁶ Of the 155 total bills tracked in this white paper, only *four* bills include Democrats as legislative sponsors or co-sponsors. Of these four, one bill from 2023, Texas SB 1, was a massive appropriations bill that included a brief section pertaining to DEI; the other three bills were Hawaiian efforts during the 2021–22 legislative cycle to change tenure policies. They have their own idiosyncratic origin story. Introduced by chair of the Senate Higher Education Committee, the bills arose from concerns over the rising costs of education, insufficient oversight of athletic programs, efforts to change how regents are selected, and an ongoing personal dispute with the University of Hawaii system (Moody 2022).

were academic gag orders, seeking to ban “divisive concepts,” including the Rufo-branded version of critical race theory (CRT). Many of these educational gag orders were based on Trump’s Executive Order 13950 as well as model legislation developed by the Center for Renewing America and the Heritage Foundation adapting language from this order. For example, in April 2022 Florida governor Ron DeSantis signed the “Stop WOKE Act” (HB 7) preventing teachers in public schools, including state universities, from requiring students to “believe” that “[m]embers of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin” or hold that “[a] person, by virtue of his or her race, color, national origin, or sex should be discriminated against” (see Appendix 3).

The original wave of academic gag orders suffered setbacks in the court and generally proved unpopular among voters (Sachs and Young 2024; Young, Friedman, and Meehan 2023). In a recent poll, for example, the public largely agrees that college professors (68 percent) should have a “good amount or great deal of influence” over what gets taught in the classroom, compared to the 37 percent of Americans who think the same about state governments (Pettit 2023). Despite their unpopularity, these gag orders facilitated the passing of subsequent bills that sought to regulate not only campus training and faculty speech, but also to ban campus DEI initiatives (Chapter 4), undermine tenure protections for university faculty (Chapter 5), change the accreditation process (Chapter 6), as well as creating academic centers, programs, ideology surveys, and other initiatives mandating the teaching of content preferred by think tank activists and Republican politicians (Chapter 7), what Sachs and Young (2024) term “curricular control.”

In examining these five types of legislation together, several trends emerge. First, the culture war attack on higher education comes almost exclusively from Republican legislators. More than 97 percent of the bills had *exclusively* Republican sponsors and most bills were passed along party lines, in states with larger Republican majorities or super-majorities (see

Appendices 4–7). All the bills signed into law, with one exception (North Carolina HB 8), were signed by Republican governors.²⁷

Second, the effort to shape campus policies and classroom content is being advanced by a network of well-funded think tanks and other national partisan organizations (Chapter 2). For example, more than eighty percent of the ninety-nine academic gag orders introduced between 2021 and 2023 drew upon language from Trump’s 2020 executive order or model legislation authored by either the Center for Renewing America or the Heritage Foundation. Similarly, bills banning DEI often drew upon model legislation developed by the Manhattan Institute and were championed behind the scenes by the Claremont Institute’s Center for the American Way of Life, the Idaho Freedom Foundation, or the Texas Public Policy Forum. In several cases, a small handful of think tank employees provided people to testify in support of these bills, still vastly outnumbered by those who came out in opposition. Despite significant democratic opposition, think tank reports still wielded considerable influence in the passage of these bills, shaping the narrative of a woke university that needed to be reined in.

Third, in four states—Florida, North Carolina, Tennessee, and Texas—Republican legislatures and governors passed a density of bills, spanning the different types. In these states, such legislation formed a self-reinforcing discursive and statutory logic. For example, language from academic gag orders—such as Florida’s HB 7—was referenced in bills banning DEI. Likewise, efforts to weaken tenure and accreditation increased the risk for faculty to speak out and challenge threats to academic freedom. In these four states in particular, legislation has created great confusion about what educators and institutions can do or say. It has also circumvented shared governance in ways that make it increasingly easier for politicians to actively shape curriculum, policy, and campus speech.

Chapter Three details how academic gag orders set the stage for more intensified efforts to remake colleges and universities. During 2021, 2022, and 2023, ninety-nine academic gag orders were introduced in thirty-three states (see Appendix 1). These bills were largely justified

²⁷ Roy Cooper of North Carolina signed HB 8, which also included many of his legislative priorities. He openly regretted the inclusion of provisions weakening accreditation and hoped the legislature would repeal them (see Chapter 6).

by the widespread narrative produced within the right-wing media and think tank echo chamber (described in Chapter 2), and often drew from model legislation written by some of the same organizations.

Works Cited

- Moody, Josh. 2022. "Hawaii Senator Takes Aim at Tenure—and More." *Inside Higher Ed*, March 7, 2022.
- Pettit, Emma. 2023. "Who Should Shape What Colleges Teach?: Not the government, most Americans say." *Chronicle of Higher Education*, September 13, 2023.
- Sachs, Jeffrey Adam, and Jeremy C. Young. 2024. "The Censors' Next Target." *Inside Higher Education*, January 10, 2024.
- Young, Jeremy C., Jonathan Friedman, and Kasey Meehan. 2023. "America's Censored Classrooms 2023." PEN America (website). November 9, 2023. <https://pen.org/report/americas-censored-classrooms-2023/>.

Chapter 3: Academic Gag Orders

The earliest bills seeking to ban content about critical race theory (CRT) were introduced in January 2021, four months after Christopher Rufo appeared on Fox News and Donald Trump signed Executive Order 13950. During the first legislative cycle following the Black Lives Matter protests, and in the early days of the culture war backlash, anti-CRT bills—such as those introduced in Mississippi, Arkansas, Iowa, and Missouri—focused primarily on K-12 education, and included unstandardized and haphazard definitions of CRT. There were regular references to the *1619 Project* (PEN America 2023). For example, Missouri HB 952 would have banned “implementing critical race theory,” defined as drawing curricular material from the *1619 Project*, the Southern Poverty Law Center’s Justice Curriculum, the Zinn Education Project, and other named entities, and would have imposed a ten percent cut in state funding for schools found in violation (Missouri House of Representatives 2021). And Tennessee’s HB 800 targeted the *1619 Project* and “textbooks and instructional material...that promote...lesbian, gay, bisexual, and transgender (LGBT) lifestyles” (Tennessee State Legislature 2022).

On February 18, 2021, Republican delegates from West Virginia introduced the first bill (HB 2595) which included the nine-part definition of “divisive concepts” drawn directly from Trump’s Executive Order 13950, which also focused on federal employee trainings (West Virginia Legislature 2021). This bill did not target educators but, like Executive Order 13950, was aimed at mandatory training for state contractors. While these early bills never became law, they were quickly followed by a deluge of bills that also borrowed the definitions of CRT and “divisive concepts” from the executive order, often including the modifications in language found in the Center for Renewing America (CRA) or Heritage Foundation model bills (see Appendix 3 for a side-by-side comparison).

In total PEN America documents 306 educational gag orders introduced in state houses between 2021 and 2023. The term “gag order” is chosen deliberately, to capture the fact that these bills were explicitly designed “to restrict teaching and training in K-12 schools, higher education, and state agencies and institutions” by

target[ing] discussions of race, racism, gender, and American history, [and] banning a series of “prohibited” or “divisive” concepts for teachers and trainers operating in K-12 schools, public universities, and workplace settings. These bills appear designed to chill academic and educational discussions and impose government dictates on teaching and learning. (Friedman and Tager 2021, 4)

While most of these bills focus primarily on public K-12 educators, ninety-nine affected colleges and universities (see Appendix 1). This report focuses on this subset of bills, which we term *academic gag orders*.²⁸ Ten academic gag orders have been signed into law (see Appendix 4). Taken together, these academic gag orders share several commonalities.²⁹ First, many draw directly from the language of divisive concepts introduced in Executive Order 13950 and recycled in the CRA and Heritage Foundation model bills. Of the ninety-nine academic gag orders introduced all but nineteen, including all ten academic gag orders signed into law, draw upon language taken directly from the Trump Executive Order 13950 or the CRA/Heritage model bills drawing upon that language.³⁰

These bills are quite vague because the think-tank echo chamber producing outrage over college instruction often misrepresents what is taking place in the classroom. As demonstrated in Chapters 1 and 2, CRT was weaponized for political and partisan gains, not out of an interest in actually understanding what is taking place (or not taking place) in the classroom. This disjunction results in considerable ambiguity about what is and is not being banned. This fact was made all too apparent in statements by politicians revealing they did not know actually what CRT means (Goldberg 2021).

²⁸ PEN America has tracked “educational gag orders,” examining efforts by state legislators and governors to shape what can be said in K-12 classrooms, higher education, as well as government training. This report uses the term “academic gag orders” to identify those sub-sets of education gag orders that pertain to higher education as well.

²⁹ This comparison was completed by taking all ninety-nine academic gag orders—and the relevant model legislation—and “decomposing” them into their individual provisions. We then entered these provisions into a spreadsheet and coded for effect. This process made it possible to identify similarities across bills and to determine whether they likely drew from a specific piece of model legislation. I am grateful to Ralph Wilson and Teodora Brnovic for the substantial work they did coding these bills.

³⁰ Brint 2023 identifies that seventy-eight of the ninety-nine academic gag orders draw on the Heritage Foundation’s model bill. However, this model bill only includes versions of three points from the definition of “divisive concepts” found in Trump’s Executive Order 13950 (or points 1, 4, and 6 in the CRA model bill). Most legislation, however, includes the full nine-point definitional for the Executive Order 13950, or the slightly modified version found in the CRA model bill. See Appendix 3 for a side-by-side comparison.

In addition to offering impossibly vague definitions concerning what constitutes CRT and so-called “divisive concepts,” these gag orders have also become more expansive in scope. The first academic gag orders introduced in 2021 were, like Trump’s Executive Order, restricted to mandatory training in higher education. However, by 2022, it became increasingly common for legislators to apply these restrictions to classroom content as well. As it became more normalized for legislatures to introduce legislation designed to shape the contours of classroom instruction, many of these bills also included increasingly draconian sanctions. Since the first academic gag orders were introduced in January 2021, ten have been signed into law (see Appendix 4).

Table 3: Academic Gag Orders Introduced (and Passed) by Year

	2021	2022	2023	Total, 2021–23
Introduced (passed)	15 (3)	57 (4)	27 (3)	99 (10)

Source: “PEN America Index of Educational Gag Orders” database (2021–23)

Note: This list of bills is drawn from the “All Legislation Introduced Since Jan 2021” page of the “PEN America Index of Educational Gag Orders” database (https://docs.google.com/spreadsheets/d/1Tj5WQVBmB6SQg-zP_M8uZsQQGH09TxmBY73v23zpyr0/edit#gid=107383712). While this Google Sheet is no longer updated, it remains the most complete record of academic gag orders introduced during the 2021–23 legislative cycles. Entries where the bill did not explicitly target higher education (such as those exclusively focused on K-12, state agencies, or government contractors) were removed. Only entries that listed “colleges,” “public colleges,” “public colleges and universities,” “public and private colleges and universities,” or the name of specific institutions (“University of Wyoming”) in the column “Explicitly Targets” were included.

2021 Gag Orders: The Roll Out

In 2021 the first academic gag orders were signed into law, in Oklahoma (HB 1775), Iowa (HF 802), and Idaho (HB 377). The Oklahoma and Iowa bills drew upon the nine-part definition of a divisive concept from the Trump Executive Order but only applied this restriction to K-12 instruction. Introduced in February 2021, Oklahoma’s HB 1775 drew verbatim from eight of nine of the points the Trump administration said defined “concepts” that “no teacher, administrator or other employee of a school” could “require or make part of a course.” But, in the section pertaining to higher education (Section 1.A.1), the law only prohibited “mandatory gender or sexual diversity training” (Oklahoma State Legislature 2021). Iowa’s HF 802,

introduced a month later, similarly draws upon the Trump Executive Order to define “race and sex stereotyping” and the nine-point definition of other “specifically defined concepts.” However, the bill uses this definition to describe content that cannot be included in trainings held by state government institutions, including public universities as well as student and teacher trainings in K-12 schools. While the section on higher education is limited to campus training, the section on K-12 education extends this prohibition to curriculum as well (Section 2).

The third academic gag order passed in 2021 — Idaho’s HB 377 — was taken almost verbatim from the Heritage Foundation’s model bill “Protecting K-12 Students from Discrimination” (see Chapter 2).³¹ This bill was the first academic gag order to apply not only to campus training but also to classroom content. The Idaho Freedom Foundation (IFF) played an important role in the passage of the bill, including blanketing the state with “robocalls and radio ads that say public colleges are teaching students ‘to hate America’” (Gluckman 2021). The lobbying arm of the IFF, Idaho Freedom Action, launched its campaign “Fix Idaho Colleges,” which launched a campaign “pressuring state lawmakers to end ‘anti-American programs’ on campuses” claiming that “Idaho students are being conditioned to ‘apologize for being white’ and ‘shut up because of their gender or race’” (Pettit 2021). This campaign has included spending thousands of dollars on radio ads and phones warning Idaho voters about “social justice on campus” (Pettit 2021). The IFF also provided testimony during the committee hearing (Corbin and Dutton 2021).³² And, in one fundraising letter, IFF president Wayne Hoffman declared that the passage of HB 377 was “thanks entirely to our reports” (Corbin and Dutton 2021), referring to the December 2020 report on social justice ideology at Boise State and the February 2021 report on University of Idaho (see Chapter 2).

Many critics dismissed this 2021 round of gag orders as disingenuous, ineffectual, or merely symbolic. Others were less sanguine. In a joint statement, the AAUP, PEN America, the American Historical Association (AHA), the American Association of Colleges and Universities,

³¹ For example, compare HB 377’s definition of the “following tenets” (3.a.i-iii) with Heritage model bill b.1-3, as well as 3.b & c with Heritage model bill c-d (Legislature of the State of Idaho 2021; Heritage Foundation n.d.).

³² See also Jones 2021.

(AAC&U) and 140 organizational cosigners described these bills as “infringing on the right of faculty to teach and of students to learn,” while “substitut[ing] political mandates for the considered judgement of professional educators” and offering a “white-washed view of history” (AAUP et. al. 2021). The African American Policy Forum described these gag orders as “designed to chill speech about race, gender, and structural discrimination and to deter faculty from exploring a wide variety of topics to foster critical thinking” (African American Policy Forum 2021).

The academic gag order in Idaho was further compounded in 2022 when the state’s trigger ban on abortion went into effect following the Supreme Court’s decision in *Dobbs v. Jackson Women’s Health*. Lawyers for the University of Idaho sent an email to faculty warning that “promoting abortion” or “advertising or promoting services for abortion” could be interpreted as in violation of Idaho law. As with CRT and “divisive concepts” gag orders, Idaho’s abortion gag order—as well as a similar law in Texas—is deliberately vague, leading universities to adopt a “maximalist interpretation” of what kind of campus speech is prohibited (Donegan 2022).

A number of think tanks played an active role in lobbying for these academic gag orders. For example, James Copland of the Manhattan Institute provided testimony in favor of Ohio’s HB 327, citing examples from Christopher Rufo’s *City Journal*, a James Martin Center report, as well as his work at the Manhattan Institute, including “How to Regulate Critical Race Theory in Schools: A Primer and Model Legislation.”³³ In 2023, the twenty-five proponents for SB 83 included four representatives from National Association of Scholars (NAS), two representatives from ACTA, as well as representatives from NAS’s state affiliate (Ohio Association of Scholars), the James Martin Center, the American Enterprise Institute, America First Policy Institute, the

³³ A link to the testimony can be found at Ohio Legislature 2021. Please note that this and subsequent chapters include information about think tank lobbying activity. However, public access to committee testimony varies from state to state, with only a handful posting such material on a website accessible to the public. The absence of examples of think-tank lobbying should not be taken as evidence of absence. I am grateful to Ralph Wilson who located the publicly available testimony.

Goldwater Institute, as well as Adam Kissel from the Heritage Foundation. In contrast, 588 people came out to testify in opposition.³⁴

2022 Gag Orders: The Intensification

Before the 2022 legislative session Florida Governor Ron DeSantis was considering legislation designed to concentrate greater control over the state's public universities in the Board of Governors and the Board of Education. The drafted bill, whose existence was only later made public through a freedom of information request, would have made it illegal to teach general education classes that "suppress or distort significant historical events or include a curriculum that teaches identity politics, such as Critical Race Theory, or defines American history as contrary to the creation of a new nation based on universal principles stated in the Declaration of Independence" (Moody 2022; Garcia 2022). While this bill was never filed, it reveals that before the 2022 legislative session the DeSantis administration already intended to empower state government with wide latitude to reshape the public university system.

While several of these sweeping changes would come to fruition in subsequent legislation and executive action, during the 2022 cycle the Florida legislature was content to pass the most aggressive academic gag order to date: Florida HB 7, or the "Stop the Wrongs to Our Kids and Employees" (Stop W.O.K.E.) Act. HB 7 drew upon the definition of "divisive concepts" introduced in Executive Order 13950 and the CRA model bill (see Appendix 3 for a side-by-side comparison). While most academic gag orders introduced in 2021 focused exclusively on campus training, HB 7 started by targeting workplace training and licensing arrangements, expanding to explicitly include instruction as well.³⁵ Section 1, for example, redefines "[u]nlawful employment practices" as including mandatory workplace-related instruction that "espouses, promotes, advances, inculcates, or compels such individual to believe any of the following concepts," followed by an eight-point list cribbed from the CRA definition (Florida House of Representatives 2022, 3). Section 2 (4)(a) then applies this same text

³⁴ A list of those providing testimony can be found at Ohio Legislature 2023. The total includes Richard Vedder (NAS) who is identified as a "Citizen of Ohio."

³⁵ The bill amends Florida's statutes defining discrimination in employment practices by replacing "gender" with "sex" and "color" for "ethnicity."

directly to training and instruction within Florida’s public K-12 and higher education systems, making it a form of discrimination to “subject any *student* or employee to training or *instruction* that espouses, promotes, advances, inculcates, or compels such student or employee to believe” in the eight points drawn almost directly from Executive Order 13950 and CRA model bill (Florida House of Representatives 2022, 9).³⁶ Furthermore, whereas the 2021 academic gag orders outlawed trainings that included banned concepts in their design, HB 7 clarifies that should so-called banned concepts even emerge during the “course of training or instruction” all discussions must take place “in an objective manner without endorsement of the concepts” (Florida House of Representatives 2022, 11).

Of the nineteen sponsors of Florida’s “Stop W.O.K.E” Act (HB 7), eleven have connections to American Legislative Exchange Council (ALEC), with many sitting on prominent ALEC committees.³⁷ It is not surprising, therefore, that HB 7 was signed into law on April 22, 2022, at a ceremony that included Christopher Rufo.

HB 7 quickly created a climate of fear within Florida’s education system, especially given that the definition of a banned concept remained incredibly vague. As a result, college presidents and administrations were left to decipher what was and was not permissible under the law. For example, shortly after the passage of HB 7, the president of the University of Florida (UF) released a presentation warning faculty that the law only limits instruction that was not “objective” (Flaherty 2022). Many Florida faculty, however, found this maximalist interpretation “deeply disappointing,” since it did not reject the culture war assumptions behind the bill, and left uncertain what would count as “objective” and who would make such determinations (Flaherty 2022; Thomas 2022). In the months since its passage, professors described a chilling effect brought about by HB 7. Some faculty members expressed fears that they could become “entangled in an investigation,” while others reported changes to classroom content based on the ambiguous law (Need 2022).

³⁶ See also Appendix 3.

³⁷ For example, Representative Bell has been an ALEC member since 2019, when he attended the annual meeting; Rep. Byrd has been a member since 2020 and sits on International Relations and Federalism as well as the Criminal Justice taskforces; Rep. Fine was an ALEC member 2017–19 and attended the 2019 annual meeting; Rep. Fischer was the ALEC State Chair (2018–20) and attended the 2019 and 2021 annual meetings (SourceWatch n.d.).

This chilling effect intensified when the state passed SB 2524 in June 2022, which denies performance funding to those universities found in violation of HB 7 (Florida State Senate 2022, 24). At UF, for example, this could have put the school's \$106 million in state performance-based grants in jeopardy (Flaherty 2022). In the months that followed UF faculty accused administrators of stalling the creation of a new curricular concentration—"Critical Study of Race, Ethnicity, and Culture in Education"—after the provost expressed concern that the institution was "under close watch" as a result of HB 7 (Pettit 2022). Valencia College administrators canceled faculty-development classes over fear that they would be interpreted as violating HB 7 (Diep and Pettit 2023).

The harm to academic freedom and free speech posed by HB 7 was substantiated in November 2022 when Federal Judge Mark Walker filed a preliminary injunction against those aspects of the law pertaining to higher education. Walker found it particularly disturbing that lawyers representing the DeSantis administration acknowledged that the vague language outlawing classroom discussions of individuals being "discriminated against or receiv[ing] adverse treatment" would effectively outlaw classroom debate concerning the relative merit of affirmative action (Walker 2022, 9). The ruling began with a quote from George Orwell's *Animal Farm*: "It was a bright cold day in April, and the clocks were striking thirteen," before going on to describe HB 7 as a "positively dystopian" effort to influence and define what constitutes permissible campus speech, and with such vagueness as to violates the plaintiffs' due process rights (Walker 2022, 2, 108). In its amicus brief, the AAUP noted that "the law's own architects" use the "openly cynical moniker" (Stop W.O.K.E Act), "mak[ing it] explicit their goal of imposing a regime of ideological censorship" (AAUP 2023, 3).

While the injunction halted enforcement of HB 7, the bill represented a watershed moment in the partisan attack on academic freedom. Not only was HB 7 an effort to influence college curriculum but it also set the stage for future attacks on diversity, equity, and inclusion (DEI) efforts in Florida. Shortly after the passage of HB 7, presidents of Florida's public universities began investigating ways to implement the legislation in ways that would grant maximum latitude to faculty. However, on December 28, 2022, Governor DeSantis's director of policy and budget issued a memo requesting that, in preparation for the 2023 legislative session,

all public higher education institutions turn over information “regarding the expenditure of state resources on programs and initiatives related to diversity, equity and inclusion, and critical race theory” (Spencer 2022; Diep 2023a). Three weeks later presidents at all twenty-eight state colleges released a joint statement capitulating to HB 7, asserting that their institutions would “not fund or support any institutional practice, policy, or academic requirement that compels belief in critical race theory or related concepts such as intersectionality” (Council of Presidents 2023; Diep 2023b).³⁸ This statement signaled the beginning of a “deafening silence” from Florida university presidents when it came to speaking out against Republican attacks on academic freedom (Rosenberg 2023). This episode also foreshadowed how academic gag orders would set the stage for attacks on DEI policies and offices on campus (see Chapter 4).

The same month that Republicans in the Florida legislature introduced HB 7, Republican Governor of South Dakota Kristi Noem requested that the House Committee on Education send her a bill banning CRT. HB 1012— “An Act to Protect Students and Employees at Institutions of Higher Education from Divisive Concepts”—begins with a seven-point definition, drawn from Executive Order 13950. Like Florida’s HB 7, the bill was not limited to mandatory campus training but also included vaguely worded prohibitions against academic institutions from “direct[ing] or compel[ing] a student to personally affirm, adopt, or adhere to divisive concepts” (South Dakota Legislature 2022). Senator Troy Heinert, of the Rosebud Sioux Tribe, noted that the bill moved far beyond banning mandatory statements, seeking instead to fundamentally change how history is taught. He criticized the legislation for encouraging a distorted representation of Indigenous history, especially troubling in a state with a sizable Native American population (Luneau 2022).

Mississippi’s 2022 academic gag order also seeks to explicitly shape the classroom. Introduced in January 2022 and signed by Republican Governor Tate Reeves in March, the bill is drawn directly from the Heritage Foundation model bill. SB 2113 defines “tenets” that students cannot be “compelled” to “personally affirm, adopt or adhere to.”³⁹ The bill explicitly applies this prohibition to any “course of instruction or unit of study” in public K-12 and higher

³⁸ See also Diep and Pettit 2023; Thomason 2023.

³⁹ The two points are #1 and #4 in the CRA model bill. See Mississippi Legislature 2022.

education, and prevents public expenditure on activities that “would violated the provisions of this section” (Mississippi Legislature 2022). The bill was introduced by Senator Michael McLendon (R), who announced it following a meeting with Heritage Senior Fellow Mike Gonzalez (Heritage Foundation 2022).

Mississippi’s academic gag order passed the Republican-controlled senate on a 32-2 vote after every Black legislator walked out in protest, leaving only two white Democrats to vote against the bill (Paget 2022). At the signing ceremony, Governor Reeves double-downed on hyperbolic claims about CRT claiming, without evidence, that “[c]hildren are dragged to the front of the classroom and are coerced to declare themselves as oppressors, that that they should feel guilty because of the color of their skin, or that they are inherently a victim because of their race” (Pittman 2022). In a social media post announcing the bill signing, Reeves repeated the culture war claims, without evidence or specific examples, that CRT “threatens the integrity of our kids’ education and aims only to humiliate and indoctrinate” (Pittman 2022).

The 2022 academic gag order passed in Tennessee (HB 2670/SB 2290) is distinct in that it brings together a ban on so-called “divisive concepts” with provisions that also explicitly target campus DEI efforts. This represents an expanding scope of these gag orders, focusing not only on regulating speech in the classrooms but also seeking to remake academic institutions themselves. This law extends Tennessee’s previously passed K-12 gag order (SB623/HB 580) to higher education. The original bill, SB 623, prohibits local K-12 education authorities from “includ[ing] or promot[ing]...in a curriculum or instructional program” that includes content meeting the multi-part definition of a “divisive concept,” including seven definitional points drawn directly from Executive Order 13950 and an addition seven points tailor-made to ensure that teachers do not introduce material that criticizes the myth that America was founded as a free, law-abiding, and divinely-ordained country.⁴⁰

⁴⁰ Tennessee’s definition of “concepts” that cannot be taught in K-12 schools includes language nearly identical to Executive Order 13950 and the CRA model legislation (points 1–7) but add seven additional points (8–14) which include: “[t]his state or the United States is fundamentally or irredeemably racist or sexist;” “[p]romoting or advocating the violent overthrow of the United States government;” “[p]romoting division” based on racial etc. categories, claiming that “[t]he rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;” that Americans “are not created equal and are not endowed by their Creator with certain unalienable rights;” and that “[g]overnments should deny...equal protection” (Tennessee State Legislature 2021, 6–7).

In expanding this gag order to higher education, HB 2670 (Section 3) repeats the definition of a “divisive concept” in terms identical to the earlier K-12 bill, while adding a definition of “race or sex scapegoating” and “race or sex stereotyping” that appear drawn directly from Executive Order 13950 and the CRA model bill. Section 4 of the academic gag order explicitly bans public higher education institutions from penalizing a “student or employee” for “refus[ing] to support, believe, endorse, embrace, confess, act upon, or otherwise assent” any of the divisive concepts or requiring students or employees to “endorse a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation.” Unlike previous academic gag orders, this bill also includes language that allows aggrieved individuals to sue for “all equitable and legal remedies” (Tennessee State Legislature 2022a, 2). HB 2670 also bans mandatory trainings that include so-called “divisive concepts” but unlike previous academic gag orders explicitly prevents government funds from being used to “incentivize...a faculty to incorporate...divisive concepts into academic curricula” (Section 5.a).

But Tennessee’s HB 2670 does not stop with simply expanding the scope of previous academic gag orders. This bill uses the ubiquitous “divisive concept” language as a vehicle to both weaken DEI offices and mandate “intellectual diversity.” The bill dilutes the mission of DEI offices by requiring that any employees “whose primary duties include diversity” must also “include efforts to strengthen and increase intellectual diversity” (Section 5.b.). The law also requires that Tennessee schools field a survey every two years to “assess the campus climate with regard to diversity of thought and the respondents’ comfort level in speaking freely on campus, regardless of political affiliation or ideology” (see Section 5) (Tennessee State Legislature 2022a, 3).

The fact that HB 2670 brings together academic gag order language with an effort to weaken campus DEI efforts is not surprising given that the Claremont Institute (CI)’s Center for the American Way of Life and the IFF were heavily involved in the bill’s passage. A report co-written by CI and IFF (see Chapter 2) was widely circulated among Tennessee Republican legislators during the legislative debates over HB 2670 (Stockard 2022). This report, “Critical Social Justice in Tennessee Higher Education: An Overview,” claims that “critical social justice” (CSJ) is gaining prevalence on college campuses around the country, including in Tennessee.

CSJ, a term invented by the report's co-authors, is supposedly a "narrow ideological view" that is "working to undermine the American way of life," and which "cultivates anger and resentment among the supposedly aggrieved, while undermining the stability and mutual toleration at the heart of a decent, stable civil society" (Milikh, Miller, and Kaestner 2022, 1). The report then conflates CSJ as synonymous with campus DEI initiatives, and proceeds to offer a campus-by-campus accounting of the various DEI strategic plans, dedicated DEI administrators, and diversity curricular requirements at Tennessee's eleven public universities. The report claims that high levels of support for DEI within Tennessee universities reveal a commitment to critical social justice—a trend, the authors argue, that can only be reversed through pro-active legislation (Milikh, Miller, and Kaestner 2022, 1). Emblematic of the right-wing echo chamber informing this report, the footnotes draw from the same conservative sources, including the Heterodox Academy, the Manhattan Institute's Heather MacDonald, the National Association of Scholars, and Jordan Peterson's YouTube video "Postmodernism and Cultural Marxism." And the report's authors—Arthur Milikh, Anna Miller, and Susan Kaestner—all have deep ties to conservative-right think tanks.⁴¹

Most commentators focused on the academic gag order portion of the Tennessee bill, and the implications that a ban on so-called "divisive concepts" would have on the college classroom. For example, one professor at East Tennessee State University expressed fear that "a small number of sensitive students" who hear something in class they disapprove of "will mistakenly assume that they are being required to endorse those positions" and that these students will be "cheered on and funded by the supporters of this legislation" (Hensley 2022; Ross 2022). The AHA warned that HB 2670 would "make it virtually impossible for teachers to help students understand the continuing impact of slavery and racism in American history"

⁴¹ Milikh is a former staff member at the Heritage Foundation and the Hudson Institute and is currently the executive director of the Claremont Institute's Center for the American Way of Life. Miller was a member of the Koch Associate Program (2018–19), a policy coordinator for ALEC (2018–20), a fellow at George Mason's Mercatus Center, and then director of education policy at the Idaho Freedom Foundation. The local contributor is Susan Kaestner, director of Velocity Convergence, a non-profit (with no listed funders) "established for the purpose of education and advocacy on the issue of viewpoint diversity in our public institutions" (Velocity Convergence n.d.). Claremont Institute, "Arthur Milikh," Center for the American Way of Life. Available at: <https://dc.claremont.org/author/arthur-milikh>; Anna Miller, LinkedIn. Available at: <https://www.linkedin.com/in/anna-miller-4b2237152/>.

(Grossman 2022). Faculty have reported changing their teaching for fear of potential retaliation (Barber 2023).

Of the fifty-seven academic gag orders introduced in 2022, those signed into law moved beyond a narrow focus on campus training, and more aggressively sought to shape classroom instruction as well. In 2023, fewer overall academic gag orders would be introduced (27), with three being signed into law. However, two of the bills—in Florida and Tennessee—would build on and expand the scope of academic gag orders already on the books in those states.

2023 Gag Orders: Doubling Down

North Dakota's academic gag order (SB 2247), introduced during the 2023 legislative session, is nearly identical to Tennessee's SB 2290. It includes the same expanded sixteen-point definition of divisive concepts (in this case, framed as a "specified concept") that, in addition to executive order model language, prohibits claiming that "[t]he rule of law...is a series of power relationships and struggles among racial or other groups" or that Americans "are not created equal and are not endowed by their Creator with certain unalienable rights" (Legislative Assembly of North Dakota 2023). As with the Tennessee bill, SB 2247 also bans mandatory trainings that "include[] a specified concept," but clarifies that these restrictions are limited to "noncredit earning trainings." This bill also includes language requiring employees "whose primary duties include diversity" to work on "increase[ing] intellectual diversity." But, unlike Tennessee's bill, it does not include a survey provision.

The other two academic gag orders passed during the 2023 legislative session were passed in states that already had academic gags on the books but imposed further draconian enforcement measures. Republican legislatures in Florida (SB 266/HB 999) and Tennessee (SB 817/HB 1376) passed bills that not only doubled down on academic gag orders but also implemented curricular content and undermined campus DEI efforts.

In Florida, legal challenges had stalled the higher education implementation of the Stop W.O.K.E. Act (HB 7). During the lawsuit lawyers representing the governor argued that the state has an interest in regulating classroom speech because faculty are state employees. In his temporary injunction, Judge Walker summarized the Defendants as asserting that

the State...has an unfettered right to prohibit professors from expressing viewpoints with which it disagrees. Thus, according to Defendants, the content of university curriculum may include the State's preferred viewpoint on the subject matter of prescribed courses and certainly excludes (at the State's discretion) any viewpoint the State chooses to prohibit. Defendants ground this argument in the notion that anything professors utter in a state university classroom during "in-class instruction" is government speech, and thus, the government can both determine the content of that speech and prohibit the expression of certain viewpoints. (Walker 2022, 18–19)

Walker rejected this claim as a clear violation of the free speech and academic freedom enjoyed by individual faculty members. However, Walker's decision left the door open for Florida Republicans to pass legislation focused on curricula that did not explicitly police individual faculty speech. Adam Kissel of the Heritage Foundation and the Texas Public Policy Foundation (TPPF) had identified this latitude in Walker's decision, pointing out that moving forward anti-CRT legislation should not "interfere with the academic freedom to have robust discussions in class," but rather should "target prejudicial behavior, such as establishing and supporting restrictive affinity groups, holding mandatory student orientation or residence life...and mandating diversity trainings" (Kissel 2022).

Drawing upon this advice, the 2023 round of academic gag orders in Florida and Tennessee maintained the objective of earlier anti-CRT gag orders while expanding in scope from the classroom to DEI policies. For example, Florida's HB 999/SB 266 accomplished this by taking the statutory definition of divisive concepts (established by HB 7) and redeploying it to regulate not only what faculty can say in the classroom but also what campus diversity policies are deemed acceptable. SB 266 prevents Florida public colleges and universities from using "state or federal funds to promote, support, or maintain any programs or campus activities" found to violate s. 1000.05 (Florida State Senate 2023, 11). In addition to these bans, SB 266 also specifies that state funding will be cut to groups that "[a]dvocate for diversity, equity, and inclusion, or promote or engage in political or social activism."

As with Florida SB 266, Tennessee's 2023 academic gag order—HB 1376/SB 817—also doubled down on its previous academic gag order. Whereas the 2022 bill included vague

language about individuals seeking legal remedy, the subsequent bill creates an institutional mechanism whereby students and employees can report violations of the divisive concept ban, now enshrined in statute §49-7-1903. Rather than relying on plaintiffs with access to the legal system, SB 817 requires that colleges and universities “investigate the report and take appropriate steps to correct any violation that is found to have occurred,” and to annually notify the “comptroller of the treasury” of any violations (Tennessee State Legislature 2023, 1). During the floor debate, Representative Justin Jones, who had previously been expelled from the chamber after protesting its failure to address gun violence, asked the bill’s primary sponsor: “Do you not believe that college students are mature enough to talk about issues like race and systemic racism”? Representative John Ragan responded, “I believe in God—all else is settled by facts and data” (quoted in Quinn 2023).

In addition to doubling down on the state’s academic gag order, SB 817 also further attacks DEI efforts. Whereas Tennessee’s 2022 gag order required campus DEI officers to support “intellectual diversity,” SB 817 adds the requirement that they also “support[] student academic achievement and workforce readiness, such as mentoring, career readiness and support, workforce development, or other related learning support activities necessary” (Tennessee State Legislature 2023, 2).

Summary

As demonstrated in this chapter, the nearly one hundred academic gag orders introduced during the 2021, 2022, and 2023 legislative cycles—including the ten signed into law—represent an evolution. These bills started as heterogenous efforts to ban CRT in campus training and rapidly evolved into more robust efforts to empower state legislatures and governing boards to play an activist role in shaping curriculum and campus DEI efforts. In the states where these bills passed, many faculty reported a chilling effect due to their vagueness. Drawn from Executive Order 13950, as well as model bills using its language, these new laws left faculty and administrators unclear about the meaning of a “divisive concept.” This confusion became increasingly troublesome as the academic gag orders incorporated more draconian

enforcement. As the educational culture war backlash intensified, academic gag order legislation expanded to include efforts to undermine campus DEI efforts as well.

By 2021 Christopher Rufo, the Manhattan Institute, and others within the right-wing think-tank echo chamber had successfully weaponized CRT as a “perfect villain” around which to frame a culture war backlash. Claremont fellow Scott Yenor, drawing upon Rufo’s rhetoric concerning CRT and “critical social justice education,” would co-write a series of state-by-state reports that depicted DEI efforts as nefarious ideological projects he dubbed “critical social justice.” These reports played an important role in the next stage of the culture war backlash against higher education, specifically the attack on campus DEI efforts. In 2023 forty anti-DEI bills were introduced in twenty-two states, marking a new and more aggressive phase in the organized attack on higher education.

Works Cited

- African American Policy Forum. 2021. “Open Letter and Call to Action to University and College Faculty.” Published on Google Drive. October 4, 2021. <https://drive.google.com/file/d/1xOYdI5hROdjoHohvc2V0j6iMKtvuU872/view>.
- American Association of University Professors (AAUP). 2023. “Brief of *Amicus Curiae*,” *Pernell, et al. v. Brian Lamb, et al.* June 23, 2023. Accessed October 16, 2023. <https://www.aaup.org/sites/default/files/AAUP%20Amicus%20Brief-Pernell%20v.%20Lamb.pdf>.
- AAUP et. al. 2021. “Joint Statement on Efforts to Restrict Education about Racism.” AAUP (website). June 16, 2021. <https://www.aaup.org/news/joint-statement-efforts-restrict-education-about-racism>.
- Barber, David. 2023. “The Failure to Condemn White Supremacist ‘Education’ Legislation in Tennessee.” *Academe*, Fall, 231–23.
- Brint, Steven. 2023. “The Political Machine Behind the War on Academic Freedom.” *Chronicle of Higher Education*, August 28, 2023.
- Confessore, Nicholas. 2024. “‘America Is Under Attack’: Inside the Anti-D.E.I. Crusade.” *New York Times*, January 20, 2024.
- Corbin, Clark, and Audrey Dutton. 2021. “Multiple Complaints Accuse Idaho Freedom Foundation of Breaking Nonprofit Rules.” *Idaho Capital Sun*, July 7, 2021.
- Council of Presidents. 2023. “Florida College System Presidents Statement on Diversity, Equity, Inclusion and Critical Race Theory.” The Florida College Systems (official website). January 18, 2023. Available at <https://www.documentcloud.org/documents/23577622-fcs-dei-statement>.
- Diep, Francie. 2023a. “Fla. Governor Asked All Public Universities for Spending Data on Diversity and Critical Race Theory.” *Chronicle of Higher Education*, January 4, 2023.

- . 2023b. "A Huge Red Flag': How Florida Colleges' Controversial Statement on Diversity Came Together." *Chronicle of Higher Education*, March 14, 2023.
- Diep, Francie, and Emma Pettit. 2023. "What is Happening in Florida? Demands for Diversity Data, a Governing-Board Overhaul, and a Pledge to Strip 'Trendy Ideology' from Higher Ed. Is Ron DeSantis Just Getting Started?" *Chronicle of Higher Education*, January 30, 2023.
- Donegan, Moira. 2022. "In Idaho, We're Seeing How Freedom of Speech is Being Curtailed Around Abortion." *Chronicle of Higher Education*, October 3, 2022.
- Flaherty, Colleen. 2022. "Mixed Message." *Inside Higher Ed*, May 8, 2022.
- Florida House of Representatives. 2022. "CS/HB 7: Engrossed 2." The Florida Senate (official website). Filed January 11, 2022. <https://www.flsenate.gov/Session/Bill/2022/7/BillText/er/PDF>.
- Florida State Senate. 2023. "CS for CS for CS for SB 266: First Engrossed." The Florida Senate (official website). Filed February 28, 2023. <https://www.flsenate.gov/Session/Bill/2023/266/BillText/er/PDF>.
- . 2022. "SB 2524: First Engrossed." The Florida Senate (official website). Filed February 4, 2022. <https://www.flsenate.gov/Session/Bill/2022/2524/BillText/er/PDF>.
- Friedman, Jonathan, and James Tager. 2021. "Educational Gag Orders: Legislative Restrictions on the Freedom to Read, Learn, and Teach." PEN America (website).
- Garcia, Jason. 2022. "Ron DeSantis Plotted an All-Out Assault on Public Universities." *Seeking Rents* (Substack). June 1, 2022. <https://jasongarcia.substack.com/p/ron-desantis-plotted-an-all-out-assault?s=r>.
- Gluckman, Nell. 2021. "Idaho Lawmakers Think Critical Race Theory Can 'Exacerbate and Inflamm Divisions.' So They Passed a Law Against It." *Chronicle of Higher Education*, April 29, 2021.
- Grossman, James. 2022. "AHA Sends Letters to Tennessee Legislature Opposing Legislation Restricting History Education." American Historical Association (website). March 2022. [https://www.historians.org/news-and-advocacy/aha-advocacy/aha-sends-letters-to-tennessee-legislature-opposing-legislation-restricting-history-education-\(march-2022\)](https://www.historians.org/news-and-advocacy/aha-advocacy/aha-sends-letters-to-tennessee-legislature-opposing-legislation-restricting-history-education-(march-2022)).
- Goldberg, David Theo. 2021. "The War on Critical Race Theory." *Boston Review*, May 7, 2021.
- Hensley, Ian. 2022. "Tennessee Shouldn't Hinder an Educator's Ability to Teach 'Divisive' Concepts." *The Tennessean*, March 21, 2022.
- Heritage Foundation. 2022. "States Use Heritage's Model Legislation to Reject Critical Race Theory in Classrooms." Heritage Foundation (website). March 18, 2022. <https://www.heritage.org/education/impact/states-use-heritages-model-legislation-reject-critical-race-theory-classrooms>.
- . n.d. "Model Legislation: Protecting K-12 Students from Discrimination." Heritage Foundation (website). Accessed January 16, 2023. <https://www.heritage.org/model-legislation/protecting-k-12-students-discrimination>.
- Jones, Blake. 2021. "Legislative Roundup, 4.22.21: House Passes New "Nondiscrimination" Bill After Marathon Day of Debates." *Idaho Education News*, April 22, 2021. <https://www.idahoednews.org/news/legislative-roundup-4-22-21-house-passes-new-nondiscrimination-bill-after-marathon-day-of-debates/>.
- Kissel, Adam. 2022. "The Smart Lawmaker's Guide To Writing Anti-Critical Race Theory Laws

- That Will Stand Up In Court." *The Federalist*, December 13, 2022. <https://thefederalist.com/2022/12/13/the-smart-lawmakers-guide-to-writing-anti-critical-race-theory-laws-that-will-stand-up-in-court>.
- Legislative Assembly of North Dakota. 2023. "Senate Bill No. 2247." LegiScan. January 3, 2023. https://legiscan.com/ND/text/SB2247/id/2787962/North_Dakota-2023-SB2247-Enrolled.pdf.
- Legislature of the State of Idaho. 2021. "House Bill No. 377." LegiScan. Introduced April 21, 2021. <https://legiscan.com/ID/text/H0377/id/2378450/Idaho-2021-H0377-Introduced.pdf>.
- Luneau, Delphine. 2022. "BREAKING: South Dakota Governor Signs Curriculum Censorship Bill." Human Rights Campaign (website). March 30, 2022. <https://www.hrc.org/press-releases/breaking-south-dakota-governor-signs-curriculum-censorship-bill>.
- Milikh, Arthur, Anna Miller and Susan Kaestner. 2022. "Critical Social Justice in Tennessee Higher Education: An Overview." Idaho Freedom Foundation (website). February 2022. <https://velocityconvergence.com/wp-content/uploads/2022/02/CSJ-in-Tennessee-Higher-Education-February-2022-1.pdf>.
- Mississippi Legislature. 2022. "Senate Bill 2113." LegiScan. Referred to Education January 12, 2022. <https://legiscan.com/MS/text/SB2113/id/2546132/Mississippi-2022-SB2113-Enrolled.html>.
- Missouri House of Representatives. 2021. "First Regular Session House Committee Substitute for House Bill No. 952." LegiScan. Introduced April 28, 2021. <https://legiscan.com/MO/text/HB952/2021>.
- Moody, Josh. 2022. "A Grab for Power." *Inside Higher Ed*, June 6, 2022.
- Need, Ryan. 2022. "I'm A Professor and the 'Stop Woke' Act Creates a Climate of Fear for Florida Educators." *Tampa Bay Times*, August 14, 2022.
- Ohio Legislature. 2023. "Senate Bill 83 Committee Activity." The Ohio Legislature (official website). Last updated December 6, 2023. <https://www.legislature.ohio.gov/legislation/135/sb83/committee>.
- . 2021. "House Bill 327 Committee Activity." The Ohio Legislature (official website). Last updated February 16, 2022. <https://www.legislature.ohio.gov/legislation/134/hb327/committee>.
- Paget, Sharif. 2022. "Black Lawmakers Walk out as Mississippi Senate Passes Legislation Described as a Critical Race Theory Bill." *CNN*, January 21, 2022.
- PEN America. 2023. "PEN America Index of Educational Gag Orders." Google sheet. June 22, 2023. https://docs.google.com/spreadsheets/d/1Tj5WQVBmB6SQg-zP_M8uZsQOGH09TxmBY73v23zpyr0/edit#gid=107383712.
- Pettit, Emma. 2021. "'Anti-American,' Pushing 'Marxism,' and More: Do You Recognize Your College Here?" *Chronicle of Higher Education*, April 5, 2021.
- . 2022. "He Accused the University of Florida of Violating His Academic Freedom. The Provost Disagrees." *Chronicle of Higher Education*, May 2, 2022.
- Pittman, Ashton. 2022. "Gov. Reeves Claims Critical Race Theory 'Humiliates' White People At Bill Signing." *Mississippi Free Press*, March 14, 2022.
- Quinn, Ryan. 2023. "Tennessee Again Targets 'Divisive Concepts.'" *Inside Higher Ed*, April 18, 2023.

- Rosenberg, Brian. 2023. "The Deafening Silence of Florida's College Presidents." *Chronicle of Higher Education*, April 6, 2023.
- Ross, Abbi. 2022. "'Divisive Concepts' Ban Targets Tennessee's Public Colleges." *Chronicle of Higher Education*, March 16, 2022.
- SourceWatch. n.d.. "Florida ALEC Politicians." The Center for Media and Democracy (website). Last edited October 25, 2023. https://www.sourcewatch.org/index.php/Florida_ALEC_Politicians.
- South Dakota Legislature. 2022. "House Bill 1012: Enrolled." LegiScan. 2022. https://legiscan.com/SD/text/HB1012/id/2543182/South_Dakota-2022-HB1012-Enrolled.pdf.
- Spencer, Chris. 2022. "MEMO #23.021: Higher Education Program and Activity Survey." Office of the Governor, Tallahassee, Florida (official website). December 28, 2022. Available at <https://www.documentcloud.org/documents/23562310-executive-memorandum>.
- Stockard, Sam. 2022. "Conservative Report Affects Higher Education Anti-Diversity Bill." *Tennessee Lookout*, February 17, 2022.
- Tennessee State Legislature. 2023. "Senate Bill No. 817." LegiScan. May 1, 2023. <https://legiscan.com/TN/text/HB1376/id/2798702/Tennessee-2023-HB1376-Chaptered.pdf>.
- . 2022. "House Bill 800." LegiScan. Filed February 9, 2021. <https://legiscan.com/TN/text/HB0800/id/2281448>.
- . 2022a. "House Bill No. 2670." LegiScan. Filed February 2, 2022. <https://legiscan.com/TN/text/HB2670/id/2569512/Tennessee-2021-HB2670-Chaptered.pdf>.
- . 2021. "Senate Bill No. 623." LegiScan. Filed February 9, 2021. <https://publications.tnsosfiles.com/acts/112/pub/pc0493.pdf>.
- Thomas, Giselle. 2022. "University of Florida Sends a Video Explaining 'Stop Woke Act' Law to Faculty." *Fox 28 Savannah*, May 6, 2022.
- Thomason, Andy. 2023. "Florida's State Colleges Say They'll Ban Promotion of Critical Race Theory." *Chronicle of Higher Education*, January 18, 2023.
- Velocity Convergence. n.d. "Who We Are." Velocity Convergence (website). Accessed October 18, 2023. <https://velocityconvergence.com/about/>.
- Walker, Mark E. 2022. "Order Granting in Part and Denying in Part Motions for Preliminary Injunction." ed. N. D. o. Florida. Tallahassee: United States District Court.
- Oklahoma State Legislature. 2021. "Bill No. 1775." LegiScan. First Reading February 1, 2021. <https://legiscan.com/OK/text/HB1775/2021>.
- West Virginia Legislature. 2021. "House Bill 2595." LegiScan. February 18, 2021. <https://legiscan.com/WV/drafts/HB2595/2021>.

Chapter 4: Bills Attacking Diversity, Equity, and Inclusion (DEI)

Following the Black Lives Matter uprising during the summer of 2020, college students, faculty, staff, and administrators at colleges and universities around the country demanded that their institutions work harder to pro-actively combat structural racism and make higher education more hospitable for all people. In response, institutions made commitments to racial justice, promising to implement diversity initiatives, hire faculty of color, and expand campus DEI training and resources. DEI offices on most campuses were already tasked with providing critical infrastructural support for students from diverse backgrounds, including “students of color, first-generation college students, students from low-income families, students with disabilities, and veterans” (Lu 2023). DEI offices were thus often tasked with ensuring that academic institutions comply with federal and state non-discrimination laws, including Title VI and Title IX, while working to “address conflicts around race, gender, or sexual orientation before they boil over” (Charles 2023).

By 2023, however, the Republican party, conservative-right activists, and right-wing and libertarian think tanks began targeting DEI offices, staff, and policies as part of their expanding social, economic, and cultural backlash against higher education. This assault on DEI included the introduction of forty bills during the 2023 legislative session that set out to accomplish some combination of four objectives: ending mandatory diversity training, preventing the use of diversity statements in job applications and promotion materials, prohibiting hiring practices designed to increase diversity, and/or ending state funding for DEI offices and personnel all together (Chronicle Staff 2023).

These four objectives align with the Manhattan Institute’s model legislation designed to “abolish DEI.” The model bill—co-written by Christopher Rufo and Ilya Shapiro of the Manhattan Institute and Matt Berenberg of the Goldwater Institute— was released in January 2021, the same month that the first anti-DEI bills were introduced in Arizona, Missouri, North Dakota, Tennessee, Texas, and a half-dozen other states (Rufo, Shapiro, and Berenberg 2021). By

the end of the 2023 legislative cycle, forty bills attacking DEI would be introduced in thirty-three state legislatures (Appendix 1), and seven would be signed into law (Appendix 5). Some of the bills are fairly limited in scope. Others, especially those that passed in Texas and Florida, represent more serious threats to campus DEI efforts, including defunding offices and instituting draconian sanctions for institutions found in violation. Both Texas and Florida passed a pair of anti-DEI bills that reinforced one another. The 2023 flurry of activity around DEI demonstrates the extent to which the anti-education backlash—supported by right-wing think tanks adapting to the limited efficacy and popularity of academic gag orders (Chapter 3)—was changing course to focus on limiting institutional autonomy.

Table 4: Bills Attacking Campus DEI Initiatives

	2021	2022	2023	Total, 2021–23
Bills introduced (bills passed)	0	0	40 (7)	40 (7)

Source: *Chronicle of Higher Education's* “DEI Legislation Tracker” (July 14, 2023)

Note: This total comes from the *Chronicle of Higher Education's* “DEI Legislation Tracker” (July 14, 2023). The number was confirmed by searching the National Council on State Legislatures (NCSL) “Postsecondary Bill Tracking Database” (keyword “diversity” by each year 2021, 2022, and 2023). Before 2023 the keyword “diversity” turned up in a variety of bills, many of which appear as legislative responses to demands made by racial justice protests. For example, 2021 and 2022 saw several supplier diversity bills, such as Florida’s HB 1007 and Illinois’s HB 4323, which required state governments to secure contracts with businesses owned by members of minoritized communities, women, and LGBTQ+ persons. In New Jersey, SB 1808 sought to require the Secretary of Education “to develop guidance regarding diversity in faculty search and selection process.” South Carolina’s HB 3076 sought to ensure that the faculty of public universities “reflect the proportional ethnic diversity and political diversity of the State.” The Postsecondary Intellectual Freedom Bill in Florida sought to repeal parts of HB 233, which allowed students to record professors’ lectures and use them in litigation. Several of these bills mentioned “diversity” in terms of promoting “intellectual diversity,” such as Iowa’s HSB 258. The same search for “diversity” in the 2023 legislative cycle turned up forty bills, all of which restricted DEI in higher education. This NCSL-generated list is identical to the *Chronicle's* “DEI Legislation Tracker.” <https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts>. As of April 2024, the *Chronicle's* “DEI Legislation Tracker” includes an additional forty-four bills introduced during the 2024 legislative cycle.

The seven bills that targeted campus DEI efforts used the language of academic gag orders to ban DEI training or requirements that state employees—including faculty at public universities—submit diversity statements as part of the hiring, promotion, or tenure processes.

For example, North Dakota’s SB 2247 defines a “specified concept,” using an expanded definition of a “divisive concept” found in Tennessee’s academic gag order from 2022 (Tennessee State Legislature 2022, 2). The definition is first deployed to establish an academic gag order (15-10.6-02), then repurposed to ban DEI training that “include[e] a specific concept” as well as the use of diversity statements for employment or promotion. Echoing Tennessee’s gag order bill, North Dakota’s SB 2247 requires employees “whose primary duties include diversity” to include “intellectual diversity” as a metric and prohibits the use of state funds for “incentiviz[ing]...a faculty member to incorporate a specific concept into academic curriculum” (Tennessee State Legislature 2023). The bill empowers individuals to “pursue all equitable or legal remedies” (Legislative Assembly of North Dakota 2023).

North Carolina’s anti-DEI bill draws on Tennessee’s expanded model definition of “concepts” that may not be “promoted in State government workplaces or included as part of any State employee training program” (General Assembly of North Carolina 2023). The bill makes it illegal for employee training at the University of North Carolina and the state’s community college system to include banned concepts or to require statements for hiring or promotion. Tennessee’s Republican governor Bill Lee signed his anti-DEI bill (SB 102/HB 158) to explicitly prevent state colleges and universities from requiring faculty and employees to “participate in implicit bias training” and to prohibit penalizing employees for not participating in such training (Tennessee State Legislature 2023).

These bills had fairly weak enforcement mechanisms. The North Carolina and Tennessee bills, for example, did not specify institutional sanctions for violating the law. And the North Dakota bill requires individuals to seek remedy in the courts. Florida and Texas, however, made national news with more robust and aggressive anti-DEI legislation. Each state passed a pair of bills that explicitly defunded DEI efforts and imposed severe sanctions on institutions found in violation.

Anti-DEI Bills in Texas

On February 13, 2023, Texas Lt. Governor Dan Patrick released a list of bills—SB 1 through SB 30—that constituted his top priorities for the 2023–24 legislative session. They included several

Republican priorities, such as making voter fraud a felony (SB 2), cutting taxes (SB 4 & 5), expanding school vouchers (SB 8), removing district attorneys and judges who “refuse to follow Texas laws” (SP 20 and 21), and banning local COVID mandates (SB 29). The list also contained a healthy dose of culture war issues. SB 12, for example, banned drag shows, SB 13 censored “obscene books in libraries,” and SB 14 outlawed gender-affirming care for minors (Texas Lieutenant Governor’s Office 2023). Four bills targeted higher education specifically, with Patrick referring to them collectively as “the strongest pushback on woke policies in higher education nationwide” (Quinn 2023). SB 15 banned transgender athletes from competing in women’s collegiate sports. SB 16—introduced by the Lt. Governor as “Banning Critical Race Theory (CRT) in Higher Education”—drew upon the now familiar “specified concepts” language, threatening faculty with dismissal if found in violation (Texas State Legislature 2023a).⁴² SB 18 sought to end tenure (see Chapter 5). Of these bills, two targeted DEI efforts explicitly. Over the course of the legislative cycle, Governor Abbott signed fourteen of these prioritized bills into law, including three at the center of the Republican higher education backlash—both DEI bills and the sports ban targeting transgender athletes.

The first attack on campus DEI initiatives came tucked away in the thousand-plus page biennial appropriations bill (SB 1), under the section titled “Unconstitutional Diversity, Equity, and Inclusion Programs or Practices.” The provision prevented the use of government expenditures for “the design, implementation, or administration of diversity, equity, & inclusion practices or programs,” which the provision defined as including “the hiring and supervision of employees, mandatory or recommended training, or programmed activities” (Texas State Legislature 2023b, Article III–296, Sec. 59).

This obscure budgetary attack on DEI was overshadowed, however, by SB 17, which represented an explicit and full-frontal assault on DEI. Drawn from the Manhattan Institute’s model bill, SB 17 made it illegal for colleges and universities to “establish or maintain a diversity, equity, and inclusion office” or to “hire or assign an employee of the institution or

⁴² The sanction was added through the amendment process.

contract with a third party to perform the[se] duties.”⁴³ It also banned requiring diversity statements for evaluating job candidates and outlawed hiring practices that “give preference on the basis of race, sex, color, ethnicity, or national origin.” The bill also bans any “training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation,” unless approved by the schools’ lawyer and the Texas Higher Education Coordinating Board (Texas State Legislature 2023). The bill also includes draconian penalties and monitoring requirements. Employees found in violation face “termination” and academic institutions cannot spend appropriated funds until they “certif[y]...compliance with this section.” Furthermore, a representative from each academic institution must regularly “testify before the standing legislative committee” to demonstrate compliance, and, in an additional layer of surveillance, the state must conduct investigations to “determine whether the institution has spent state money in violation of this section” (Texas State Legislature 2023).

After the bill was announced, faculty, students, and alumni protested the bill but were largely ignored. As one University of Texas undergraduate noted, “Nobody wants to listen to us...These legislators, they’re busy passing bills that they’re not even fully aware of the consequences” (quoted in Surovell 2023). And Representative Ron Reynolds, chairman of the Texas Legislative Black Caucus, decried SB 17 as evidence that “Texas, a state which has the largest population of African Americans, is unwilling to confront systemic inequities and provide an inclusive learning environment for all students” (quoted in McDaniel 2023).

This attack on DEI was powered by conservative-right think tanks and advocacy groups. The libertarian Texas Public Policy Foundation (TPPF) played a key role in writing the legislation (Hicks 2023). TPPF Senior Fellow Sherry Sylvester wrote several blog posts criticizing DEI, based on material cribbed from Christopher Rufo’s Twitter account and posts from the Manhattan Institute (Sylvester 2023a, 2023b). TPPF issued its own “report” claiming DEI initiatives violate the Declaration of Independence, citing Claremont Institute fellow Scott

⁴³ The Manhattan Institute model legislation includes the following four proposals: “Abolish DEI bureaucracies,” 2) “End mandatory diversity training,” 3) end the use of diversity statements in hiring, and 4) exclude diversity from hiring decisions. These four points also make up the core provisions of SB 17 (sub-section b.1.A-E). The definition of “diversity, equity, and inclusion office” in SB 17 (sub-section a.1–4) is an expanded version of the definitions of “diversity, equity, and inclusion” offered in the Manhattan Institute model bill (Rufo, Shapiro, and Beienburg 2023, 3–4). Compare Rufo, Shapiro, and Beienburg 2023 to Texas State Legislature 2023b.

Yenor’s report *How Texas A&M Went Woke*” (Lindsay 2023; Yenor 2023a). Sylvester also testified in favor of the bill in the Senate’s Subcommittee on Higher Education (2023), alongside Ben Carson, TPPF’s Richard Johnson, Heritage Foundation’s Adam Kissel, and one other witness. The small number of think-tank employees stands in sharp contrast to the forty individuals who testified against the bill, and the additional 120 individuals who registered to testify or submitted written testimony.⁴⁴ In her testimony, Sylvester relied on reports from the Heritage Foundation, National Association of Scholars, Do No Harm, and the Claremont Institute to support her assertions that DEI has “morphed” CRT and “gender ideology...beyond being just left wing propaganda into structured operating systems” (TPPF 2023a).⁴⁵ Similarly, on May 8, TPPF’s Richard Johnson testified in support of SB 17 in the house committee, alongside Daniel Bonevack, a University of Texas professor who regularly works with TPPF, and one other person, compared with the nearly 70 people who testified against it (Higher Education Committee 2023).⁴⁶ Despite this considerable show of opposition to the bill, SB 17 passed along party lines.

TPPF celebrated the passage of the legislation, calling it “the strongest anti-DEI Bill in the nation” (TPPF 2023). Sylvester declared that “[t]he war against DEI has just begun” (2023). The State Policy Network awarded TFFP an outstanding achievement prize, in recognition of “[t]heir experts [who] delivered legislative testimony, placed strategic commentary and op-eds, and held events to raise awareness and support for education freedom reforms,” including advancing parental choice and restrictions on “teaching things like Critical Race Theory” (SPN 2022).

The vague language of academic gag orders chilled the speech of faculty—and Texas’s ambiguously worded characterization of DEI had a similar effect, causing uncertainty about what kind of campus offerings and staffing were acceptable. In August 2023, the University of North Texas announced the closure of DEI offices, and the retirement of the vice president of

⁴⁴ One Texas faculty member reported waiting twelve hours to testify against SB 17 (Chávez 2023, 20).

⁴⁵ Do No Harm is a group that claims to combat CRT and “gender ideology” in medical schools (Do No Harm, n.d.).

⁴⁶ An additional twenty-three individuals registered to testify, including Jackie Besinger (the “chairman” for Travis County Moms for Liberty) and Cindi Castilla (Texas Eagle Forum), compared to more than an additional one hundred and eighty registered to testify against. The TPPF profile for Besinger can be found here: https://www.texaspolicy.com/wp-content/uploads/2022/05/Jackie-Besinger_Bio.pdf.

DEI. The university also announced efforts to revisit the school's mission statement and to "reorganize" the campus multicultural center, pride alliance and related programs" (Rodrigues 2023). University of Houston closed its LGBTQ Resource Center and the Center for Diversity and Inclusion, replacing it with the Center for Student Advocacy and Community to the disappointment of under-represented students (Welch 2023; KTRK 2023). At Texas A&M, SB 17 was used to justify the board's decision to scuttle the appointment of journalism professor Kathleen O. McElory, who had previously expressed a commitment to diversity initiatives (Gretzinger 2023). This multi-pronged attack on DEI was not limited to Texas.

Anti-DEI Bills in Florida

Between the introduction of SB 1 and the signing of SB 17 in Texas, Florida Republicans introduced—and Governor Ron DeSantis signed—a pair of bills banning DEI initiatives in their state. As in Texas, these twin laws—HB 931 and SB 266—fundamentally transformed campus DEI infrastructure.

In February 2023 HB 931 was introduced. It redefined "loyalty tests" as including a commitment to "diversity, equity, and inclusion." In so doing, the bill ended the use of "loyalty tests" (aka "diversity statements") in hiring and promotion and generally prevented the consideration of diversity during the hiring process. This bill, in other words, repeats the think-tank echo chamber rhetoric that treats diversity efforts as mere political ideology, defining a loyalty test as "soliciting a person to identify commitment to...[a]ny ideology or movement that promotes the differential treatment of a person or a group of persons based on race or ethnicity, including....*diversity, equity, and inclusion*" (Florida Legislature 2023a, 4). This section of HB 931 is drawn directly from the "End Political Litmus Tests in Education Act" model legislation, co-written by Stanley Kurtz, the Martin Center, and the Goldwater Institute (Robinson 2023).

The same day DeSantis signed HB 931 he also signed SB 266, one of the most aggressive attacks on academic freedom during the 2023 legislative cycle. In addition to imposing strict academic gag orders on curricular content (see Chapter 3), SB 266 also deployed the definition of a "specified concept" (created in HB 7) to make it illegal for state colleges and universities to "promote, support, or maintain any programs or campus activities." Activities that violate the

definition of discrimination defined in HB 7, or which “[a]dvocate for diversity, equity, and inclusion,” could no longer receive state or federal funding (Florida Legislature 2023, emphasis added). In signing the bill, DeSantis explicitly described campus DEI efforts as “promot[ing] dangerous political and social activism” (Office of the Governor of Florida 2023a).

Following Judge Walker’s decision to stay HB 7 (see Chapter 3), these two bills represent legislative efforts by the DeSantis administration to focus not on faculty speech, protected by academic freedom, but rather on institutional autonomy by politicizing and villainizing campus DEI efforts. In March 2023, a month after the introduction of HB 931 and SB 266, DeSantis held a roundtable titled “Exposing the Diversity, Equity and Inclusion Scam.” According to the press release, this roundtable was designed to denounce DEI efforts as “forc[ing] exclusion and division within higher education” and therefore worthy of being defunded (Office of the Governor 2023). Speaking at the event, alongside DeSantis and Commission of Education Manny Diaz, were the Manhattan Institute’s Christopher Rufo, the Claremont Institute’s Scott Yenor, and Carrie Sheffield from the Independent Women’s Forum.⁴⁷ The press release—which one reporter described as anti-DEI propaganda—included a link to Scott Yenor’s recently released Claremont Institute report “Florida Universities: From Woke to Professionalism” (see Chapter 2).⁴⁸ “Florida Universities” offered a campus-by-campus breakdown of the presence of DEI staff, diversity committees, and plans for promoting diversity. Yenor characterized DEI as a trojan horse for left-wing indoctrination, but also made clear that efforts to politicize DEI were about marginalizing—and eventually defunding—public universities entirely.

Yenor’s report offers a clear distillation of how billionaire-funded right-wing activists characterize campus DEI efforts without either nuance or an appreciation of campus contexts, using ideological echo-chamber rhetoric to dismiss the work of campus professionals. For example, he asserts that DEI programs benefit students and faculty who lack merit, and therefore must be ended and prevented from ever taking hold again. It is necessary to “[s]al[t]

⁴⁷ The Independent Women’s Forum is a conservative-right organization funded by a small network of activist libertarian donors, with a long history of framing corporate priorities as women’s rights issues. Major donors include DonorsTrust (\$5.5 million), Randolph Foundation (\$4.1 million) Scaife Foundation (\$2 million), Donors Capital Fund (\$1.6 million) Bradley Education Foundation (\$1.2 million), and others (DeSmog n.d.).

⁴⁸ Ben Montgomery, a reporter for Axios Local, was fired after the Florida Department of Education tweeted out his email that described the announcement as “propaganda, not a press release” (Rosenzweig-Ziff and Rao 2023).

the ground so that the DEI administration cannot re-emerge,” he writes. Yenor is clear that such efforts are not one-off policy concerns but part of a larger campaign to totally dismantle the “reigning national ‘civil right’ regime” (Yenor 2023, 1).

It is important to stress the openly hostile and anti-academic characterization of campus DEI efforts articulated by Yenor and promoted by the Governor of Florida. In this account, DEI professionals and whole academic institutions are bad-faith actors forwarding their left-wing political interests. To understand the depth of this hostility a lengthy quote of Yenor’s report is necessary:

Universities also hoodwink red state politicians by playing a sophisticated game in which they pursue radical, controversial policies under the cover of sweet-sounding values like diversity, equity, and inclusion. These policies are also framed as seemingly uncontroversial. For instance, the University of Florida’s college of law has established tuition-free scholarships for graduates of HBCUs. That seems nice. It would be great if more people could go to school for free. However, it has done so to get around Florida’s ban on racial preferences. Free tuition to HBCUs is a way to get more blacks into law school, since HBCU graduates are overwhelmingly black. Florida does not allow programs that favor whites or blacks, but this program is a way to sneak preference for blacks without technically violating the ban on racial preferences.

Every policy and every iteration of DEI has these same problems. Curriculum changes sound nice. It is good to learn about other cultures. However, the spirit of the changes is that all *students learn is to hate their own civilization and to be ignorant* about it. Doing a little extra to recruit minorities in admissions or faculty positions seems fine, as long as jobs are still distributed on the basis of merit. However, in reality, this *means re-fashioning job descriptions for minority candidates* and not for the purposes of education or hiring on a basis other than merit or department need. Furthermore, hiring committees only know that their affirmative action worked if it yields a minority candidate and hire. *Many aspects of DEI are based on lies*. Other aspects are obfuscations. All point to a world beyond equal protection of the laws and competitive merit. ...

A more intentional un-programming of Florida's universities is necessary in a world where professional and elite pressures are so intense to conform. *Destroying the universities is not an option* in our environment, since they are crucial to credentialing. *De-emphasizing them and reforming them are politically feasible*. De-emphasizing them involves finding workarounds for students through changing professional licensing. No longer should accountants be required to major in accounting—they should be able to apprentice and pass the CPA on their own. Same with engineers. And lawyers.

Reforming the universities is another matter. *Eradicating DEI administratively is one crucial move*—overseen by the board of governors. *This will require a more ideological confrontation* from the board. *Salting the ground so that the DEI administration cannot re-emerge* will take the legislature acting in conjunction with the board of governors. We suggest robust enforcement mechanisms for Florida's ban on racial preferences and a ban on the collection of race and sex data in Florida's schools. This will stop the "sordid business" of divvying up Floridians on the basis of race, among other things. (Yenor 2023).

In other words, universities are enemies that must be destroyed. However, they cannot be destroyed in total, so it is necessary for politicians and governing boards to radically transform them. Taken together, Florida's anti-DEI bills—HB 931 and SB 266—represent exactly the kind of "ideological confrontation" that Yenor's report describes, deploying the power of the state to enforce partisan ideologies at the expense of institutional autonomy and academic freedom.

The effect of these two Florida bills has been dramatic and deeply concerning. SB 266 went into effect July 1, 2023, but is vague and requires further guidance about implementation from governing boards. By mid-August 2023, this guidance had still not been provided, leaving schools with considerable uncertainty about how to respond. The President of the United Faculty of Florida noted that SB 266 has had "a chilling effect, instilling fear in faculty members that they might unknowingly violate the law because it's unclear what the law means" (Lu and Bauman 2023). Institutions have removed mentions of diversity and inclusion from their websites, including delisting whole programs and online resources (Lu and Bauman 2023). AAUP President Irene Mulvey called the bill "a 'dog whistle appeal' to the conservative base,

and part of a ‘coordinated campaign to maintain White supremacy’” (Stripling 2023). DeSantis’s attack on DEI has contributed to a state-wide “chilling effect” on Florida’s higher education system, as seen by faculty rejecting jobs in Florida and professors at Florida institutions actively seeking employment elsewhere (Kennedy 2023; Zahneis 2023).

Summary

By 2023 the educational culture war had moved from attacking “critical race theory” and other so-called “divisive concepts” to focusing instead on campus DEI initiatives. Many of the anti-DEI bills introduced in 2023 drew upon existing or recently implemented academic gag orders. These bills, however, were more ambitious in nature. Especially in the cases of Florida and Texas, Republican legislators and their allies in right-wing think tanks understood anti-DEI legislation as changing higher education more fundamentally. Their attacks proceeded by first politicizing and demonizing DEI within the right-wing echo chamber, and then passing laws designed to defund DEI offices and programming, end training, and prevent schools from considering diversity in hiring and promotion. The focus on DEI pivoted the anti-education backlash away from the increasingly unpopular focus on policing individual faculty speech and instead turned to legislation that could serve as a lever for remaking academic institutions themselves.

As these efforts gained unflattering attention, Republican legislatures also advocated bills that undermined institutional safeguards historically created to protect faculty and academic institutions from external political pressures: tenure and accreditation.

Works Cited

- Charles, J. Brian. 2023. “Colleges Could Be Flooded With Citizen Lawsuits Under Proposed DEI Legislation.” *Chronicle of Higher Education*, March 30, 2023.
- Chávez, Karma R. 2023. “Lessons from AAUP Advocacy in Texas.” *Academe*, Fall, 19–21.
- Chronicle Staff. 2023. “DEI Legislation Tracker.” *Chronicle of Higher Education*, July 14, 2023.
- DeSmog. n.d. “Independent Women’s Forum (IWF).” DeSmog (website). Accessed October 27, 2023. <https://www.desmog.com/independent-women-s-forum/>.
- Do No Harm. n.d. “FAQ.” Do No Harm (website). Accessed December 21, 2023. last accessed December 21, 2023.

- Florida Legislature. 2023. "CS for CS for CS for SB 266, 1st Engrossed." LegiScan. Filed February 28, 2023. <https://legiscan.com/FL/text/S0266/id/2798308/Florida-2023-S0266-Enrolled.html>.
- . 2023a. "CS/CS/HB 931." LegiScan. Filed February 17, 2023. <https://legiscan.com/FL/text/H0931/id/2797164/Florida-2023-H0931-Enrolled.pdf>.
- General Assembly of North Carolina. 2023. "Senate Bill 364." LegiScan. Filed March 23, 2023. https://legiscan.com/NC/text/S364/id/2831076/North_Carolina-2023-S364-Chaptered.pdf.
- Gretzinger, Erin. 2023. "Texas A&M Tries to Turn the Page From its Summer of Scandal." *Chronicle of Higher Education*, September 29, 2023.
- Hicks, Maggie. 2023. "Texas Officials Scramble, Advocates Fret, Weeks Before DEI Funding Expires." *Chronicle of Higher Education*, July 20, 2023.
- Higher Education Committee. 2023. "Witness List." Texas Legislature Online (official website), May 8, 2023. <https://capitol.texas.gov/tlodocs/88R/witlistbill/html/SB00017H.htm>.
- Kennedy, John. 2023. "Critics Warn DeSantis is Hurting Florida Universities with Push to the Political Right." *Tallahassee Democrat*, April 12, 2023.
- KTRK. 2023. "Chronicle reports UH will shut down, DEI and LGBTQ in response to anti-DEI law." *ABC 13 Witness News*, August 25, 2023.
- Lu, Adrienne. 2023. "Silence From State Officials on Florida's New Anti-DEI Law Unnerves Critics, Employees." *Chronicle of Higher Education*, June 26, 2023.
- Lu, Adrienne, and Dan Bauman. 2023. "2 States Restricted DEI. Here's How Colleges Revised Their Websites." *Chronicle of Higher Education*, August 18, 2023.
- Marijolic, Kate. 2023. "North Dakota Just Enacted a 'Specified Concepts' Bill. Here's What It Says." *Chronicle of Higher Education*, April 25, 2023.
- McDaniel, Kirk. 2023. "Texas Governor Signs Ban on College Diversity Programs into Law." *Courthouse New Service*, October 24, 2023.
- Legislative Assembly of North Dakota. 2023. "Senate Bill No. 2247." LegiScan. Introduced January 13, 2023. https://legiscan.com/ND/text/SB2247/id/2787962/North_Dakota-2023-SB2247-Enrolled.pdf.
- Lindsay Thomas K. 2023. "DEI Versus the Declaration of Independence." Texas Public Policy Forum (website). September 2023. <https://www.texaspolicy.com/wp-content/uploads/2023/09/2023-08-NGT-DEI-versus-the-Declaration-of-Independence-ThomasLindsay.pdf>.
- Office of the Governor of Florida. 2023. "Governor Ron DeSantis Hosts Roundtable Exposing the Diversity Equity and Inclusion Scam in Higher Education." Office of the Governor (official website). March 13, 2023. <https://www.flgov.com/2023/03/13/governor-ron-desantis-hosts-roundtable-exposing-the-diversity-equity-and-inclusion-scam-in-higher-education/>.
- . 2023a. "Governor Ron DeSantis Signs Legislation to Strengthen Florida's Position as National Leader in Higher Education" Office of the Governor (official website). May 15, 2023. <https://www.flgov.com/2023/05/15/governor-ron-desantis-signs-legislation-to-strengthen-floridas-position-as-national-leader-in-higher-education/>.
- Quinn, Ryan. 2023. "From Ending Tenure to Enshrining It." *Inside Higher Ed*, May 9, 2023.
- Robinson, Jenna A. 2023. "A Florida Bill to Promote Fairness on Campus." James G. Martin

- Center for Academic Renewal (website). May 5, 2023. <https://www.jamesgmartin.center/2023/05/a-florida-bill-to-promote-fairness-on-campus/>.
- Rodrigues, Marcela. 2023. "UNT is eliminating its diversity office in response to new Texas law." *Dallas Morning News*, August 1, 2023.
- Rosenzweig-Ziff, Dan, and Sonia Rao. 2023. "Fla. Reporter Fired After Calling News Release on DeSantis Event 'Propaganda.'" *Washington Post*, March 15, 2023.
- Rufo, Christopher F., Ilya Shapiro, and Matt Beienburg. 2023. "Abolish DEI Bureaucracies and Restore Colorblind Equality in Public Universities." Manhattan Institute (website). January 2023. https://media4.manhattan-institute.org/sites/default/files/model_dei_legislation013023.pdf.
- State Policy Network (SPN). 2022. "Press Release: Announcing the Finalists for the 2022 Bob Williams Awards for Outstanding Policy Achievement." State Policy Network (website). July 21, 2022. <https://spn.org/articles/2022-bob-williams-award-finalists/>.
- Stripling, Jack. 2023. "DeSantis Signs Bill to Defund DEI Programs at Florida's Public Colleges." *Washington Post*, May 15, 2023.
- Subcommittee on Higher Education. 2023. "Witness List." Texas Legislature Online (official website). April 6, 2023. <https://capitol.texas.gov/tlodocs/88R/witlistmtg/pdf/C5352023040609001.PDF>.
- Surovell, Eva. 2023. "Students and Faculty Fear Tenure and DEI Bills Could 'Destroy' Texas Colleges." *Chronicle of Higher Education*, May 28, 2023.
- Sylvester, Sherry. 2023. "Texas War to End DEI is Just Beginning." Texas Public Policy Forum (website). July 5, 2023. <https://www.texaspolicy.com/texas-war-to-end-dei-is-just-beginning/>.
- . 2023a. "Senate Bill 17 and the Campus Thought Police." *9th and Congress*. Texas Public Policy Foundation (website). May 29, 2023. <https://www.texaspolicy.com/senate-bill-17-and-the-campus-thought-police/>.
- . 2023b. "What is DEI, really?" *9th and Congress*. Texas Public Policy Foundation (website). April 20, 2023. <https://www.texaspolicy.com/what-is-dei-why-texas-needs-sb-17>
- Tennessee State Legislature. 2023. "Senate Bill 102." LegiScan. Filed January 11, 2023. <https://legiscan.com/TN/text/SB0102/id/2817071>.
- . 2022. "House Bill No. 2670," LegiScan. Filed February 2, 2022. <https://legiscan.com/TN/text/HB2670/id/2569512/Tennessee-2021-HB2670-Chaptered.pdf>.
- Texas State Legislature. 2023. "Senate Bill No. 17: Enrolled." LegiScan. Filed March 10, 2023. <https://legiscan.com/TX/text/SB17/id/2820276/Texas-2023-SB17-Enrolled.html>
- . 2023a. "Senate Bill No. 16." LegiScan. Filed March 10, 2023. <https://legiscan.com/TX/text/SB16/id/2778043>.
- . 2023b. "House Bill 1." Texas Legislature Online (official website). Filed January 18, 2023. <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HB00001F.pdf>.
- Texas Lieutenant Governor's Office. 2023. "Lt. Gov. Dan Patrick Announces Top 30 Priorities for the 2023 Legislative Session." State of Texas (official website). February 13, 2023. <https://www.ltgov.texas.gov/2023/02/13/lt-gov-dan-patrick-announces-top-30-priorities-for-the-2023-legislative-session/>.
- Texas Public Policy Foundation (TPPF). 2023. "Press Release: TPPF Applauds the Passage of

- Senate 17—the Strongest anti-DEI Bill in the Nation.” Texas Public Policy Foundation (website). May 29, 2023. <https://www.texaspolicy.com/press/tppf-applauds-the-passage-of-senate-17-the-strongest-anti-dei-bill-in-the-nation>.
- . 2023a. “TPPF’s Sherry Sylvester’s Testimony in favor of SB17.” YouTube, min: 1:18. May 8, 2023. <https://www.youtube.com/watch?v=nLmDuOKdkcM>.
- Welch, Monique. 2023. “University of Houston students brace for LGBTQ Resource Center closure in response to Texas’ DEI ban.” *Texas Tribune*, August 17, 2023.
- Yenor, Scott. 2023. “Florida Universities: From Woke to Professionalism.” Center for the American Way of Life. The Claremont Institute (website). March 11, 2023. <https://img1.wsimg.com/blobby/go/d8097304-7e12-473f-92cc-ca7ca923c20a/630824228-Florida-Universities-From-Woke-to-Pr.pdf>.
- . 2023a. “How Texas A&M Went Woke.” Center for the American Way of Life. The Claremont Institute (website). February 2023. <https://dc.claremont.org/wp-content/uploads/2023/02/How-Texas-AM-Went-Woke-web.pdf>.
- Zahneis, Megan. 2023. “Statehouses’ Targeting of Diversity and Tenure Is Starting to Scare Away Faculty Job Candidates.” *Chronicle of Higher Education*, May 5, 2023.

Chapter 5: Bills Weakening Tenure

The passage of vaguely worded academic gag orders and a growing corpus of legislation opposed to diversity, equity, and inclusion (DEI) efforts have created a climate in which faculty are increasingly concerned that teaching their areas of expertise will put them on the wrong side of politicians, governors, partisan university boards, and complicit administrators. This is exactly the kind of external threat that tenure was initially designed to protect faculty from. However, many of the same politicians pushing academic gag orders and DEI bans have also sought to weaken the protection of tenure, including placing greater decision-making power over the hiring and firing of faculty in the hands of governing boards. For example, Texas’s SB 17, discussed in the previous chapter, not only defunds DEI offices but also requires that governing boards at state colleges and universities “adop[t] policies and procedures for appropriately disciplining, up to and including termination, an employee” found in violation of the law (Texas Legislature, 2023a). The statute does not specify that disciplinary acts must take place within a process that protects academic freedom and respects tenure. In addition to SB 17, twenty-two bills in fourteen states introduced during the 2021, 2022, and 2023 legislative cycles explicitly seek to end, or weaken, tenure protections. Three bills have passed—two in Florida (SB 7044 and SB 266) and one in Texas (SB 18)—that serve as likely blueprints for future attacks on tenure during upcoming legislative cycles (Appendix 6).

Table 5: Bills Undermining Tenure

	2021	2022	2023	Total, 2021–23
Introduced (passed)	8	2 (1)	10 (2)	20 (3)

Source: NCSL, “Postsecondary Bill Tracking Database”

Note: This list of bills was compiled by the author by entering the term “tenure” into the NCSL “Postsecondary Bill Tracking Database” for the 2021, 2022, and 2023 legislative cycle. This search yielded 46 bills, which we then examined to determine whether they constituted efforts to weaken tenure, defined as ending tenure altogether, imposing post-tenure review, empowering board members to unilaterally rewrite tenure guidelines, legislating eligibility limitation on tenure (for example, tenure for teaching faculty only), or empowering the board or administration to sanction faculty outside faculty-governed procedures. Bills were removed from the list if they strengthened tenure or faculty employment, including the creation of tenure track positions (such as Washington’s SB 5830) or the extension of the length of employment contract (such as Colorado’s SB 48). Bills that created a

committee to study tenure were excluded. Bills introduced in 2021 and carried over to 2022 legislative session are only listed under 2021. House and Senate companion bills are presented as a single entry. The resulting list was compared to PEN America's "Higher Ed Autonomy Restrictions" list (see Educational Gag Orders tracker) to confirm that all PEN-identified bills with "tenure" listed under "Bill Type" appeared on this list. The list was also compared against the American Federation of Teachers (AFT)'s "Defensive Higher Ed Legislation 2023" list, confirming that all bills identified as threats to tenure by AFT in 2023 were included.

The AAUP defines tenure as an indefinite appointment that can only be terminated for cause or, under extraordinary circumstances, because of financial exigency or program discontinuance for educational reasons (AAUP 2015a). To protect academic freedom, dismissal for cause must be related, "directly and substantially, to the fitness of faculty members in their professional capacities as teachers and researchers" (AAUP 2015c, 83), and it must be preceded by academic due process. In cases of dismissal, the AAUP considers academic due process to entail a hearing before an elected faculty body in which the burden of demonstrating adequate cause rests with the administration. It is hard to imagine that most faculty hearing committees would regard making statements on social media that the administration finds distasteful or teaching topics that the board (or governor) preferred were not being taught as evidence of professional unfitness. Due process policies and procedures can be enshrined in institutional regulations (AAUP 2015c) or in a collective bargaining agreement (AAUP 2015b).

In recent years, however, there have been several efforts to weaken tenure, often by making it easier to dismiss faculty without due process. For example, Governor Scott Walker's 2011 passage of Act 10 in Wisconsin undermined collective bargaining for state employees and was followed by a 2015 budget bill that removed tenure from the state statutes in the name of creating greater budget flexibility (Kaufman-Osborn 2017, 101). The University of Wisconsin System Board of Regents adopted a systemwide tenure policy that faculty felt offered weaker protections than those they had previously enjoyed under state law (Flaherty 2016). In 2021 the Georgia Board of Regents passed a post-tenure review policy making it possible to terminate a tenured faculty member without what the AAUP regards as the academic due process inseparable from tenure (AAUP 2022). In 2021 and 2022, Democratic lawmakers in Hawaii introduced a series of bills (SB 1328, SB 1394, and SB 3269) that would, among other things, limit

tenure to teaching faculty (Moody 2022). However, in recent years, attacks on tenure have increasingly been framed in terms of the culture-war backlash against higher education.

Post-Tenure Review in Florida

In February 2022, a month after DeSantis introduced the “STOP Woke Act” (HB 7), Republican state senators introduced SB 7044. In addition to requiring that course content be posted online and weakening the accreditation process (see Chapter 6), SB 7044 required the Board of Governors to institute a post-tenure review policy. The policy would evaluate tenured faculty every five years to assess “[a]ccomplishments and productivity,” their “[a]ssigned duties in research, teaching, and service,” whether faculty met “[p]erformance metrics, evaluations, and ratings,” and to establish criteria for “[r]ecognition and compensation” (Florida State Legislature 2022). Approved in March 2023, the policy the Board of Governors eventually developed based on this bill—Regulation 10.003—locates the review of faculty primarily with the administration (Donadel 2023). According to this regulation, faculty are assessed on their “level of accomplishment and productivity” as well as their “history of professional conduct,” any “non-compliance with state law” or “[s]ubstantial student complains,” plus “[o]ther relevant measures of faculty conduct as appropriate” (FBoG 2023, 2). The original draft of Regulation 10.003 also proposed to evaluate whether tenured faculty had violated Section 1000.05(4) of the Florida Statutes, namely the definition of a divisive concept created under HB 7.⁴⁹

In the review process, tenured professors submit a dossier, which is then evaluated by their department chair and forwarded to their dean. The dean then assigns a value to the file, based on whether it “Exceeds expectations,” “Meets expectations,” “Does not meet expectations,” or is “Unsatisfactory.” The dossier and recommendation are forwarded to the “chief academic officer,” who, “[w]ith guidance and oversight from the university president,” “accept[s], reject[s], or modif[ies] the dean’s recommended rating” (FBoG 2022, 3). Faculty members who exceed or meet expectations shall be “recommend[ed]” for “recognition and/or

⁴⁹ See Quinn (2023b) for links to a draft policy showing edits that appear in the finalized version.

compensation,” notably unspecified. Those deemed not to have met expectations must create a “performance improvement plan.” If they fail to fulfill its stipulations, they “shall receive notice of termination from the chief academic officer.” Those faculty whose performance is judged “unsatisfactory” will receive the same notice (FBoG 2022, 4). It should be noted that this evaluation process is entirely undertaken by the administration, without input from any relevant faculty committees. Terminations “may be appealed under university regulations or collective bargaining agreements.” If the process includes arbitration, arbitrators are only allowed to review a decision “solely for the purpose of determining whether it violates a university regulation or the applicable collective bargaining agreement.” So whether faculty will be afforded the academic due-process protections that the AAUP considers to be constitutive of tenure will vary by institution and may depend on how institutional authorities decide to interpret the provision. Given that Florida’s SB 256 had already severely weakened public sector unions, we can expect a decline in the number of faculty protected by collectively bargained contracts that include an adequate appeals process.

AAUP president Irene Mulvey described SB 7044 as the latest step in DeSantis’s “relentless crusade to destroy higher education,” premised on the notion that “higher education faculty are the enemy and must be subjugated” (Mulvey 2022). The president of United Faculty of Florida noted that before SB 7044 all tenured and non-tenured faculty members had undergone an extensive review process. The “only missing piece” was the ability for administrators and governing boards to fire “tenured faculty...[for] political reasons,” which the Republican sponsors of SB 7044 were all too eager to provide (quoted in Flaherty 2022).

SB 7044 initially presented post-tenure review as optional, as something that the Board of Governors could decide to impose or not to impose. The following year, however, Florida Republicans passed SB 266 which further doubled down on this effort to weaken tenure. SB 266 included a provision that amended Section 1001.706(6)b of the Florida Statutes from “may” to “shall,” so the statute now reads: “The Board of Governors *shall* adopt a regulation requiring each tenured state university faculty member to undergo a comprehensive post-tenure review every 5 years” (Florida House of Representatives 2023, 8, emphasis added).

Texas and North Dakota: Bullets Dodged?

Ending tenure was also part of Texas Governor Greg Abbott's 2023 legislative agenda.

Fortunately, the worst-case scenario, an outright end to tenure, was avoided. The original version of Texas SB 18 eradicated tenure for employees hired after September 1, 2023 (Texas Legislature 2023b). On March 30, 2023, the senate Subcommittee on Higher Education heard testimony on SB 18. Only three people testified in favor of the bill; they included Thomas Lindsay of the Texas Public Policy Foundation (TPPF) and Adam Kissel of the Heritage Foundation (and visiting fellow at TPPF).⁵⁰ Fifteen people testified against SB 18, and another seventy-eight persons registered to testify or provide written testimony against the bill (SHE 2023). Lindsay's testimony asserted that tenure created "a lack of accountability" and blamed "tenured faculty's control of hiring and promotion" as the cause of "ideological conformism on campuses today" (Lindsay 2023). Ending tenure—and therefore placing greater authority in the hands of governing boards—was necessary, in other words, to encourage colleges and universities to more closely reflect the preferred ideas of conservative activists.

The Subcommittee on Higher Education revised SB 18 substantially. The bill signed into law on June 17, 2023, required governing boards at each state college and university to develop policies that clarify the guidelines for granting tenure, while also laying out a process for dismissal (McGee 2023). The policies must "allow for the dismissal of a tenured faculty member at any time," assuming there is evidence of "professional incompetence," a failure to "perform duties or meet professional responsibilities," a failure to "successfully complete any post-tenure review," "conduct involving moral turpitude," "violat[ion of] laws or university system or institution policies," or criminal conviction, "unprofessional conduct," or "falsified...academic credentials." The bill also stated that tenured faculty can be dismissed in cases of "financial exigency or the phasing out of the institution's programs" or any "other good cause as defined in the institution's policies" (Texas Legislature 2023a).

⁵⁰ The "Witness List" only mentions Kissel's Heritage Foundation affiliation, not his connection to TPPF. Publicizing his role with TPPF would have revealed that two of the three people speaking in favor of SB 18 were affiliated with TPPF. I am grateful to Ebbeler (2023) for the connection. See "Adam Kissel," Texas Public Policy Foundation. Accessed January 22, 2024. <https://www.texaspolicy.com/about/people/adam-kissel-2/>

While the watered-down bill is much preferable to the original bill, there is disagreement about what the outcome will be. The president of Texas's AAUP state conference noted that the bill "really just codifies what we're currently doing," while giving the lieutenant governor the appearance of cracking down on faculty (Quinn 2023). Professor Karma Chávez, at the University of Texas at Austin, said that SB 18 "codifies into law several additional pathways to termination," including faculty "speech outside of the university if that speech negatively affects the university's reputation" (Chávez 2023).

While Texas eventually passed a watered-down tenure bill, a full-scale attack on tenure was narrowly defeated in North Dakota. Republican House member Mike Lefor solicited an anti-tenure bill from Dickinson State University president Steve Easton, who wrote a bill granting university presidents greater power in hiring and firing faculty (Quinn 2023c). HB 1446 would have implemented a "four-year pilot program" at Bismarck State College and Dickinson State University to "improve the tenure process," which the bill defined as empowering the presidents to review all faculty and determine whether tenured faculty members were "complying with their duties and responsibilities." If they were not, their employment would be terminated without review or appeal. The bill also defined duties that faculty would be accountable for as generating "more tuition or grant revenue" than they cost, "teach[ing] and advis[ing] a number of student approximately equal to the average campus faculty teaching and advising load," participating in efforts to "recruit and retain students," helping "students achieve academic success," and avoiding any "har[m]" to "the institution" through their public statements (HB 1446 2023). In short, university presidents could review any faculty at any point without any due process protections. AAUP President Irene Mulvey described the bill as yet "another example of elected state officials taking a hostile stance toward higher education that undermines freedom and democracy" (AAUP 2023). The bill passed the House by a wide margin (66–27) but failed in the Senate by two votes, despite a 43–4 Republican super majority (Quinn 2023a).

The former Chancellor of the North Dakota University System, Larry Isaack, campaigned against HB 1446, arguing that it increased the potential for external political influence and therefore jeopardized the accreditation of Bismarck State College and Dickinson

State University (Nietzel 2023). Critics of Republican higher education legislation often cite the possibility of running afoul of accreditors. It is not surprising, therefore, that the Republican academic culture war has turned its attention to accreditation.

Works Cited

- AAUP. 2023. "AAUP Urges North Dakota Legislature to Abandon Effort to End Tenure," *AAUP Updates*, February 2, 2023. <https://www.aaup.org/news/aaup-urges-north-dakota-legislature-abandon-effort-end-tenure>.
- . 2022. *Academic Freedom and Tenure: University System of Georgia*. American Association of University Professors (Bulletin). December 2022.
- . 2015a. "1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments." In *American Association of University Professors: Policy Documents and Reports*, edited by Hans-Joerg Tiede, 13–19. Washington, D.C.: American Association of University Professors.
- . 2015b. "Arbitration in Cases of Dismissal." In *American Association of University Professors: Policy Documents and Reports*, edited by Hans-Joerg Tiede, 330–33. Washington, DC: American Association of University Professors.
- . 2015c. "Recommended Institutional Regulations on Academic Freedom and Tenure." In *American Association of University Professors: Policy Documents and Reports*, edited by Hans-Joerg Tiede, 79–90. Washington, D.C.: American Association of University Professors.
- Chávez, Karma R. 2023. "Lessons from AAUP Advocacy in Texas." *Academe*, Fall, 19–21.
- Donadel, Alcino. 2023. "A Regulation Targeting Tenure in Florida Gains Approval, Big Win for DeSantis." *University Business*, March 30, 2023.
- Ebbeler, Jennifer. 2023. "What Ending Tenure Would Mean to Texas." *Inside Higher Ed*, April 20, 2023.
- Flaherty, Colleen. 2022. "Florida Passes Posttenure-Review Law." *Inside Higher Ed*, April 19, 2022.
- . 2016. "'Fake' Tenure?" *Inside Higher Ed*, March 10, 2016.
- Florida Board of Governors (FBoG). "10.003 Post-Tenure Faculty Review." State University System of Florida. March 2023. https://www.flbog.edu/wp-content/uploads/2023/03/10.003-Post-Tenure-Review_032923.pdf.
- Florida State Legislature. 2022. "Senate Bill 7044: First Engrossed." LegiScan. Filed February 9, 2022. <https://legiscan.com/FL/text/S7044/id/2544315/Florida-2022-S7044-Enrolled.html>.
- Florida House of Representatives. 2023. "CS/CS/CS/SB 266: First Engrossed." My Florida House (official website). May 1, 2023. <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=s0266e1.DOCX&DocumentType=Bill&BillNumber=0266&Session=2023>.
- Kaufman-Osborn, Timothy. 2017. "Disenchanted Professionals: The Politics of Faculty Governance in the Neoliberal Academy." *Perspectives on Politics* 15 (1): 100–15.
- Lindsay, Tom. "Senate Bill 18: Texas Senate Subcommittee on Higher Education." Texas Public

- Policy Foundation (website). March 30, 2023. <https://www.texaspolicy.com/wp-content/uploads/2023/05/2023-04-Testimony-SB18-TomLindsay.pdf>.
- McGee, Kate. 2023. "Amended Bill Would Keep Tenure at Texas Public Universities." *Texas Tribune*, May 7, 2023.
- Moody, Josh. 2022. "Hawaii Senator Takes Aim at Tenure—and More." *Inside Higher Ed*, March 7, 2022.
- Mulvey, Irene. "A Relentless Crusade to Destroy Higher Education in Florida." American Association of University Professors. April 20, 2022. <https://www.aaup.org/news/relentless-crusade-destroy-higher-education-florida>.
- National Council on State Legislatures (NCSL). 2023. "Postsecondary Legislation Database." National Council on State Legislatures (website). July 17, 2023. <https://www.ncsl.org/education/postsecondary-legislation-database>.
- Nietzel, Michael T. 2023. "North Dakota Senate Votes Down Controversial College Tenure Bill." *Forbes*, April 3, 2023.
- North Dakota State Legislature. 2023. "House Bill 1446." LegiScan, January 18, 2023. https://legiscan.com/ND/text/HB1446/id/2648546/North_Dakota-2023-HB1446-Introduced.pdf.
- Quinn, Ryan. 2023. "From Ending Tenure to Enshrining It." *Inside Higher Ed*, May 9, 2023.
- . 2023a. "N.D. Senate Narrowly Rejects Bill on Firing Tenured Faculty." *Inside Higher Ed*, April 3, 2023.
- . 2023b. "Florida System Board Proposes Revised Posttenure Review." *Inside Higher Ed*, February 22, 2023.
- . 2023c. "Firing Tenured Faculty, With No Appeal Right." *Inside Higher Ed*, January 25, 2023.
- Texas Senate Subcommittee on Higher Education (SHE). 2023. "Witness List." Texas Legislature Online. Last modified March 30, 2023. <https://capitol.texas.gov/flodocs/88R/witlistmtg/pdf/C5352023033009001.PDF>.
- Texas Legislature. 2023a. "Senate Bill No. 18: Enrolled." LegiScan. Signed June 17, 2023. <https://legiscan.com/TX/text/SB18/id/2820070/Texas-2023-SB18-Enrolled.html>.
- . 2023b. "Senate Bill No. 18: Introduced." LegiScan. Introduced March 10, 2023. <https://legiscan.com/TX/text/SB18/id/2737953/Texas-2023-SB18-Introduced.html>.
- . 2023c. "Senate Bill No. 17: Enrolled." LegiScan. Filed March 10, 2023. <https://legiscan.com/TX/text/SB17/id/2820276/Texas-2023-SB17-Enrolled.html>.

Chapter 6: Bills Weakening Accreditation

In 2019 Education Secretary Betsy DeVos issued new rules governing the accreditation of colleges and universities. In the name of fostering greater free-market competition among academic institutions, the policy allowed regional agencies to accredit academic institutions outside their region (Kelderman 2019). Critics warned that this would allow colleges and universities to shop around for the least stringent regulators, a change understood as benefiting the for-profit university sector still reeling from Obama-era regulations (Kelderman 2019). This little-noticed departmental policy change was seized upon a few years later when three states with a track record of legislative and board interference in higher education—Florida (2022 and 2023), North Carolina (2023), and Texas (2023)—introduced bills designed weaken the regulatory power of academic accrediting agencies. In all three states, these legislative efforts came as a response to criticism accrediting agencies voiced that political interference was posing a threat to institutional autonomy and putting future accreditation at risk (Sachs and Young 2023; Lederman 2019). Frustrated by the fact that concerns about accreditation had hindered some efforts to ban critical race theory (CRT) and to end diversity, equity, and inclusion (DEI) efforts, Christopher Rufo made it clear in 2023 that accrediting agencies would be the “next target” (Sachs and Young 2023). Of the six accreditation bills introduced in three states, three bills—two in Florida and one in North Carolina—have been signed into law (Appendix 7).

Table 6.1: Bills Designed to Weaken Accreditation

	2021	2022	2023	Total, 2021–23
Introduced (passed)	0	1 (1)	5 (2)	6 (3)

Source: NCSL, “Postsecondary Bill Tracking Database”

Note: This list was compiled by the author. This list was compiled by first using the search term “accreditation” in the NCSL “Postsecondary Bill Tracking Database” for the 2021, 2022, and 2023 legislative cycles. This search yielded seventeen bills, which were then hand examined to determine whether they constituted efforts to weaken accreditation by requiring states to use different accrediting agencies. House and Senate companion bills were listed as a single entry. Bills carried over from 2021 to 2022 were only listed once, under 2021. This list was then compared to PEN America’s “Other Higher Ed Bills of Concern” list (see: Educational Gag Orders tracker) looking for “accreditation” listed under “Bill Type” (<https://airtable.com/appg59iDuPhlLPPFp/shrtwubfBUo2tuHyO>)

[/tblOcn0o6p9ynElcN/viwjP04OhcpLyMhXr?blocks=hide](#)). I added North Carolina HB 8 as a result of this search. Texas SB 1987 was added after it appeared in reporting.

Accreditation is a wonky issue that seems to have little political constituency outside of right-wing think tanks. It is not surprising, therefore, that many of the think tanks examined in this report have used their echo chamber to push accreditation onto political agendas, often in ways that are highly rhetorical and that lack the nuance that should accompany good-faith discussions of how to guarantee educational quality in a system without strong federal oversight. Within the echo chamber of right-wing think tanks accreditation is often described as a “cartel,” and its process is seen as a mechanism for imposing DEI initiatives.⁵¹ DeSantis has signaled his support for these positions by regularly campaigning against accrediting agencies, calling them “‘cartels’ that are driving the proliferation of diversity, equity, and inclusion policies on college campuses” (Kelderman 2023). Of course, campus DEI policies do not play a major role in the accrediting process (Kelderman 2023). However, DeSantis and other Republican politicians use DEI to smear regulators voicing concerns about the growing political influence exerted upon academic institutions.

Accreditation in Florida

The first bill undermining the regulatory power of accrediting agencies was signed into law by Florida Governor Ron DeSantis on April 19, 2022. As described above, SB 7044 created post-tenure reviews (see Chapter 5) and required the public posting of course material (see Chapter 7). In its section on accreditation, the bill also mandates that public colleges and universities in Florida “not be accredited by the same accrediting agency or association for consecutive accreditation cycles” (Florida State Legislature 2022). The bill also includes a cause of action allowing academic institutions to sue accrediting agencies if negatively “impacted by retaliatory action” (Florida State Legislature 2022). The very act of providing oversight may be interpreted as “retaliation” and therefore open accrediting agencies up to the potential for litigation.

⁵¹ See, for example, Burke, Kissel, Alabay, and Beltramini 2023; Vedder 2023; Gillen 2022.

The effort by the Republican super-majority to use this legislation to weaken the regulatory power of accrediting agencies was introduced after the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) raised concerns that Governor DeSantis was placing undue political influence on Florida's universities. Specifically, in 2021, DeSantis declared his intention to nominate his Education Commissioner, Richard Corcoran, to the presidency of Florida State University (FSU). At the time, Corcoran also served on the State University System's Board of Governors, the body tasked with choosing the next FSU president. This clear conflict of interest led SACSCOC to warn that the school might risk being "out of compliance with the accreditor's standards, potentially imperiling FSU's accredited status" (Kelly 2023; see also Whitford 2021).

Following the passage SB 7044, however, James Kvall of the Department of Education warned DeSantis that the requirement to change accreditors every decade "put institutions and the students they enroll at risk of loss of eligibility for Federal financial aid programs" (Kvall 2022). In response, DeSantis included an amendment the following year to the statute on accreditation (1008.47) created by SB 7044 (Knott 2023a). SB 266 was an omnibus higher education bill that, among other things, prevented public universities from supporting DEI programs (see Chapter 4) and instituted post-tenure review (Chapter 5). SB 266 also amended 1008.47 to make the rotation of accrediting agencies a "one-time change," with the whole clause expiring after December 2032 (Florida State Legislature 2023). While this change seems to diminish the most egregious aspects of SB 7044, SB 266 doubles down on permitting universities to sue their accrediting agencies, lowering the standard to demonstrating an "adverse" effect rather than proving retaliation. SB 266 also strengthens the hand of Republican lawmakers by making it clear that accrediting agencies cannot "compel any public postsecondary institution to violate state law" (Florida State Legislature 2023). In litigation introduced shortly after the passage of SB 266, the DeSantis administration sued the Biden administration, arguing that tying institutional access to student loan funding to accreditation violated the Constitution (Knott 2023a, 2023b). Florida's SB 7044, the amendments made in SB 266, and the lawsuit that followed are efforts by Florida Republicans to freely exert political influence over state universities.

Texas and North Carolina

It's not surprising that the two other states that have introduced legislation designed to weaken accreditation also feature Republican state lawmakers and conservative university governing boards that have played active roles in waging a culture war against education. In Texas, for example, state legislators introduced a bill in March 2023 (SB 2335/HB 4880) seeking to transform the accreditation process. The bill would create a nine-member Texas Higher Education Accreditation Commission, three appointed by the governor, three by the lieutenant governor, and three by the speaker of the house. This commission, all political appointees, would determine which accrediting agencies Texas universities could consult. Furthermore, the commission's deliberations would be guided not by curricular concerns or institutional protections for academic freedom but rather through the assessment of the "educational and labor market outcomes" of students as well as the assessment of whether accreditors would "hinder or interfere with the authority of the institution's governing board and the institution's accountability to the legislature" (Texas State Legislature 2023). SB 2335 also included a cause of action, similar to Florida's SB 266, allowing schools to sue accrediting agencies if they have been "adversely impacted by retaliatory action" (Texas State Legislature 2023). Texas Republicans filled a second accreditation bill, SB 1987, which edited the Education Code by eliminating the Southern Association of Colleges and Schools (SACSCOC) as the named accrediting agency and replacing it with "a recognized accrediting agency designated by the board" (Texas State Legislature 2023a). While neither bill was signed into law, they demonstrate that Texas legislators have also been interested in weakening the accreditation process.

North Carolina also introduced legislation during the 2023 session designed to weaken the accreditation process. SB 680 revised the UNC and community college accrediting process by eliminating SACSCOC as the legally defined accrediting agency, and instead listing six regional agencies as possible accreditors, while also making it illegal to use the same accrediting agency in consecutive cycles (North Carolina General Assembly 2023). The bill was introduced after SACSCOC criticized UNC-Chapel Hills's Board of Trustees for imposing the creation of the School of Civic Life and Leadership (see Chapter 2) without proper faculty oversight (Lu 2023; Kelderman 2023). The original Senate bill failed in the House but was snuck into an

omnibus bill (HB 8), which passed without debate and was signed by the Democratic governor who supported other priorities in the bill (Moody 2023). In signing HB 8, Governor Cooper noted that, while he strongly supported other provisions in the bill, “the changes to the university and community college accreditation process are onerous and will add an unnecessary burden and increase costs for our public higher education institutions,” and should therefore be revisited (Office of Governor Roy Cooper 2023).

University accreditation has also become a concern of national Republican politicians, who repeat the line that accreditation is merely a vehicle for campus DEI policies and “wokeness.” In June 2023, Senators Marco Rubio (FL), Mike Lee (UT), and Rick Scott (FL) introduced the Fairness in Higher Education Accreditation Action, which would prevent accrediting agencies from considering diversity or affirmative action criteria in their assessments. According to Rubio, this bill would prevent accrediting agencies from pressuring universities to adopt “woke standards” (Office of Senator Marco Rubio 2023). Similarly, the Heritage Foundation’s *Project 2025* (see Chapter 2) includes a whole section on accreditation, laying out plans to prevent accrediting agencies from mandating DEI policies and from interfering with how “states...decide governance and leadership issues” and authorizing states to decide on their own accrediting agencies (Burke 2022, 319). The Heritage Foundation plan suggests that an incoming Republican Secretary of Education “refuse to recognize all accreditors that abuse their power,” while encouraging the formation of new accrediting agencies (Burke 2022, 319).

Efforts to weaken accreditation, however, are not ends in themselves. Instead, as seen in Florida, Texas, and North Carolina, Republican legislators seek to weaken accreditation standards because they desire to wield greater influence over what takes place in academic institutions. This brings us to the fifth type of legislation associated with the culture war backlash against higher education—efforts to mandate content.

Works Cited

Burke, Lindsey M. 2022. “Department of Education.” In *Mandate for Leadership: The Conservative Promise*, edited by Paul Dans and Steven Groves. Washington, D.C.: Heritage Foundation, 319–62.

- Burke, Lindsey M., Adam Kissel, Armand Alacbay, and Kyle Beltramini. 2023. "It's Time for Congress to Dismantle the Higher Education Accreditation Cartel." *Backgrounder* (No. 3774), The Heritage Foundation (website). June 20, 2023. <https://www.heritage.org/sites/default/files/2023-06/BG3774.pdf>.
- Florida State Legislature. 2023. "CS for CS for CS for SB 266, 1st Engrossed." LegiScan. Filed February 28, 2023. <https://legiscan.com/FL/text/S0266/id/2798308/Florida-2023-S0266-Enrolled.html>.
- . 2022. "Senate Bill 7044: First Engrossed." LegiScan. Filed February 9, 2022. <https://legiscan.com/FL/text/S7044/id/2544315/Florida-2022-S7044-Enrolled.html>.
- Gillen, Andrew. "Further Evidence that Higher Education Accreditation is a Cartel." Texas Public Policy Foundation (website). April 14, 2022. <https://www.texaspolicy.com/further-evidence-that-higher-education-accreditation-is-a-cartel/>.
- Kelderman, Eric. 2023. "Why Are Trump and DeSantis Talking About Accreditation?" *Chronicle of Higher Education*, May 31, 2023.
- . 2019. "The Education Dept. Wants Accreditors to Compete. What Could Possibly Go Wrong?" *Chronicle of Higher Education*, July 11, 2019.
- Kelly, Jarrod. 2023. "The Right-Wing War on Accreditation." *Chronicle of Higher Education*, March 31, 2023.
- Knott, Katherine. 2023a. "DeSantis Challenges Constitutionality of Accreditation." *Inside Higher Ed*, June 27, 2023.
- . 2023b. "DeSantis Sues Biden Administration Over Accreditation." *Inside Higher Ed*, June 23, 2023.
- Kvall, James. 2022. Letter to Governor Ron DeSantis. March 10, 2022. Available at <https://storage.courtlistener.com/recap/gov.uscourts.flsd.649390/gov.uscourts.flsd.649390.1.3.pdf>.
- Lederman, Doug. 2019. "Accreditors, States and Political Influence." *Inside Higher Ed*, August 1, 2019.
- Lu, Adrienne. 2023. "UNC's Board Comes Under Scrutiny After Surprise Plan for 'Civic Life' School." *Chronicle of Higher Education*, February 16, 2023.
- Moody, Josh. 2023. "North Carolina Forces Changes to Accreditation." *Inside Higher Ed*, October 10, 2023.
- North Carolina General Assembly. 2023. "Senate Bill 680: Revise Higher Ed Accreditation Processes." North Carolina General Assembly (official website). May 3, 2023. <https://www.ncleg.gov/Sessions/2023/Bills/Senate/PDF/S680v3.pdf>.
- Office of Governor Roy Cooper. 2023. "Press Release: Governor Cooper Signs Seven Bills, Vetoes Two Bills, and Lets Three Become Law." NC Governor Roy Cooper (official website). October 2, 2023. <https://governor.nc.gov/news/press-releases/2023/10/02/governor-cooper-signs-seven-bills-vetoes-two-bills-and-lets-three-bills-become-law>.
- Office of Senator Marco Rubio. 2023. "Press Release: Rubio, Colleagues Introduce Fairness in Higher Education Accreditation Act." Marco Rubio U.S. Senator for Florida (official website). June 1, 2023. <https://www.rubio.senate.gov/rubio-colleagues-introduce-fairness-in-higher-education-accreditation-act/>.
- Sachs, Jeffrey, and Jeremy C. Young. "The Culture Wars are Coming for College Accreditation."

- PEN America (website). July 13, 2023. <https://pen.org/the-culture-wars-are-coming-for-college-accreditation/>.
- Texas State Legislature. 2023. "S.B. No. 2335." Texas Legislature Online (official website). Available at <https://capitol.texas.gov/tlodocs/88R/billtext/html/SB02335I.htm>.
- . 2023a. "S.B. No. 1987." LegiScan. May 23, 2023. https://legiscan.com/TX/text/SB1987/id/2813660/Texas-2023-SB1987-Comm_Sub.html.
- Vedder, Richard K. 2023. "Does College Accreditation Work?" James G. Martin Center for Academic Renewal (website). July 28, 2023. <https://www.jamesgmartin.center/2023/07/does-college-accreditation-work/>.
- Whitford, Emma. 2021. "Accreditor Flags Florida State Search." *Chronicle of Higher Education*, May 13, 2021.

Chapter 7: Bills Undermining Academic Governance

As demonstrated in previous chapters, academic gag orders and legislation opposed to diversity, equity, and inclusion (DEI) efforts have limited speech on college campuses and in the classroom. The vagueness of these laws has sown confusion among faculty and created considerable uncertainty about what kind of speech might land faculty and academic institutions in legal jeopardy. This lack of clarity is compounded by university administrations that adopt maximalist interpretations of the laws and all too often remain silent for fear of political retaliation. Academic gag orders and bills banning campus DEI efforts feed into negative caricatures of faculty and higher education, narratives created within the echo chamber of right-wing think tanks. While tenure and accreditation are designed to shield colleges and universities from such external influence, they too are coming under increased attack. As a result of this culture-war backlash against higher education, many public colleges and universities find themselves increasingly vulnerable to external political influence, even in areas of curriculum and academic governance where faculty should have primary oversight.

In conclusion, it is helpful to look at how legislation banning so-called “divisive concepts,” ending campus DEI initiatives, and weakening tenure and accreditation are often accompanied by the efforts of Republican legislators and governors to explicitly shape the content of what is taught and discussed on college campuses. The final type of legislation examined in this report includes a heterogeneous set of bills that, in various ways, undermine academic governance and faculty control over the curriculum by expanding the power of state legislatures to actively create alternative academic centers and programming in the name of “intellectual diversity.” This group of bills includes legislation Sachs and Young (2024) term “curricular control.”

This chapter examines three different kinds of bills that threaten academic governance, up to and including curricular control. The first type of legislation includes those bills that require universities to field surveys or take other steps to ensure “viewpoint diversity.” The second category of bills uses the supposed lack of viewpoint diversity as a pretext for creating new academic centers or programs. And, finally, curricular control bills not only “tell faculty

what they can teach,” but also “give politicians the authority to decide whether faculty will have a course in which to teach it.” These bills include those that “order the shuttering of departments or academic institutes, cancel courses, eliminate majors, or remove disciplines from general education curricula” (Sachs and Young 2024). All three types of legislation send the message that faculty and academic institutions are “woke,” biased against conservative viewpoints, unable to govern themselves and, therefore, require political intervention. It should be noted that this is a heterodox group of bills and therefore, unlike in previous chapters, does not claim to represent a comprehensive.

Surveys and Viewpoint Diversity

While academic gag orders constrain what many faculty feel they can say in the classroom, the language of “viewpoint diversity” is deployed to justify greater active intervention in shaping what gets taught on college campuses. The think-tank echo chamber detailed in this report has played a significant role in presenting “viewpoint diversity” as a major concern on college campuses. For example, the James Martin Center claims that polarization on campus, and the fact that more professors are registered as Democrats, means that conservative ideas are excluded (Martin Center Staff 2020). A Senior Research fellow at the Heritage Foundation declared that DEI hiring policies create a situation where “[m]ost American universities are dominated by Leftist ideology. Viewpoint diversity is vanishing” (Hankinson 2023). However, Bradford Vivian, a scholar of political rhetoric, has demonstrated that rising concerns about “viewpoint diversity” correspond with academic institutions increasingly being populated by people with a greater diversity of experiences and backgrounds. As such, viewpoint diversity became a way to discredit “existing measurements of diversity like race, nationality, sex, and gender” as less important to the academy than preserving ideas—such as the study of Western Civilization and the Great Books—which had previously flourished within the academy unchallenged. The demand for viewpoint diversity, in other words, represents a “politically *reactionary* response to formal measures that have created more socially and academically diverse institutions of higher learning” (Vivian 2022, 23).

Within this context, viewpoint diversity concerns have served as a pretext for the passage of bills requiring universities to survey their faculty, students, and staff. For example, in January 2021 Governor DeSantis introduced Florida HB 233, which included three main provisions: an “anti-shielding” provision allowed students to sue public universities if a faculty member denies them the opportunity to engage “ideas and opinions” because “they may find [them] uncomfortable”; a recording provision allowed students to record classroom lectures, without instructor consent, for use as evidence in litigation claiming that they had been “shielded” from certain ideas; and, finally, a survey provision that required Florida public colleges and universities to assess “intellectual freedom and viewpoint diversity” on campus (Florida House of Representatives 2021). During the floor debate over the bill, one Democratic senator expressed confusion about what it hoped to address. The bill’s cosponsor, Sen. Rodrigues, pointed to surveys conducted by the Foundation for Individual Rights in Education as well as a handful of universities but could not identify any “documented examples” from Florida of students self-censoring or experiencing a lack of viewpoint diversity. However, the senator noted that the survey provision in HB 233 would provide evidence about whether or not a lack of viewpoint diversity in Florida higher education was indeed a problem that needed to be addressed (Florida Senate Committee on Education 2021). HB 233, which introduced novel and chilling anti-shielding and recording provisions, passed the state legislature and was signed by the governor without any specific evidence that a crisis of viewpoint diversity even existed. What made the bill’s passage possible was, of course, the existence of a think-tank and media echo chamber that had produced a narrative that the lack of viewpoint diversity was a crisis needing a legislative solution.⁵² The response rate for the Florida Board of Governors 2022 survey was a mere 2.4 percent. Yet even those who bothered filling out the survey reported general satisfaction with their ability to express views in the classroom (Nietzel 2022).

Advocates for Florida’s HB 233 referred multiple times to polls conducted by other state university systems (Colorado, Nebraska, North Dakota, and UNC-Chapel Hill) as examples of

⁵² For an overview of HB 233, and the political infrastructure that led to its passage, see Isaac Kamola and Ralph Wilson, “Export Report of Isaac Kamola, Ph.D., and Ralph Wilson” (unpublished), May 23, 2022. Written for the plaintiffs in *Link v Diaz* (2023), Eleventh Circuit, Tallahassee, FL. Available upon request.

the need for a similar survey in Florida. These previous surveys also provide little evidence that a crisis of free speech exists on college campuses, however. For example, the Nebraska survey shows high levels of support for free speech, and a campus that generally feels comfortable expressing opinions. The survey, conducted by Gallup, was part of a broader campus climate survey and, unlike the Florida survey, avoided framing the question about viewpoint diversity in terms of “liberal” versus “conservative” views (Gallup 2018, 9–16). The results from UNC similarly revealed that students found their professors “open minded and encouraging of participation from both liberals and conservatives” and that students were more likely to self-censure because of pressure from peers than professors (Larson, McNeilly, and Ryan 2022, 18). Despite evidence that anxieties about a lack of viewpoint diversity are exaggerated, the right-wing think-tank echo chamber continues to insist that legislation is needed to address the issue.

Tennessee’s 2022 academic gag order HB 2670 also included a provision requiring a “biennial survey” of students, faculty, and staff “to assess the campus climate about diversity of thought and the respondents’ comfort level in speaking freely on campus, regardless of political affiliation or ideology” (Tennessee State Legislature 2022, 3). The legislation is explicitly concerned with the self-censorship of political views but is uninterested in whether students and faculty feel welcomed and included on campus such that they feel free to speak. As with previous surveys, the 2023 survey concluded that “92% of UT students said their campuses were committed to free expression, and 89% felt comfortable expressing themselves” (Pounds 2023).

Many faculty and administrators maintain that diversity viewpoint surveys are simply attempts to manufacture evidence that a lack of viewpoint diversity exists on college campuses. For example, a survey of the University of Wisconsin system was delayed after criticism from faculty and students, and the resignation of an interim chancellor (Zahneis 2022). The president of the University of Wisconsin-Stevens Point’s Student Government Association criticized the language used in the survey as being used to “provoke ‘unwarranted fear about our campuses being liberal indoctrination centers and how we silence the conservative voice,’” and that the legislature will “weaponize the rules of the survey in the November election...to attack our system” (Shoop 2022).

Mandating viewpoint diversity surveys, however, reinforces the think-tank talking points that a crisis of viewpoint diversity exists in higher education. Even when survey results arrive at the opposite conclusion, these talking points justify the creation of academic centers and programs designed to teach the curricular content preferred by Republican politicians and conservative megadonors.

Academic Programs and Centers

As described in Chapter 4, Florida’s HB 931—signed by DeSantis on May 15, 2023—began by redefining diversity statements as a political loyalty test. After preventing their use in tenure and promotion evaluations, the bill institutionalized “intellectual diversity” by establishing Offices of Public Policy Events at each of Florida’s public colleges and universities. These offices are tasked with organizing public debates and “group forums” on controversial issues (Florida House of Representatives 2023a). This section of HB 931 comes directly from “The Campus Intellectual Diversity Act,” a model bill written by Stanley Kurtz and published by the National Association of Scholars (Robinson 2023).⁵³ The specific charge of the Offices of Public Policy Events in HB 931 is to host events that “address, from multiple, divergent, and opposing perspectives.” The bill includes a detailed surveillance system, requiring reporting and publicly posting videos of all events, thereby allowing politicians and political activists to ensure that “viewpoint diversity” is enforced (Florida House of Representatives 2023a). The precise format for campus debate is also imposed by the legislation, without requiring that the center director be faculty or have faculty oversight. The bill does not guarantee that academic freedom will be protected, or that the centers respond to curricular needs on campus. These Offices of Public Policy Events are created—literally—by the think tanks and media echo chamber that manufactured the crisis narrative concerning viewpoint diversity.

On the day DeSantis signed HB 931 he also signed an omnibus education bill, SB 266. Its many provisions include the expansion of the Hamilton Center for Classical and Civic Education at the University of Florida. Created in 2022 as part of SB 2524, the Hamilton Center

⁵³ Compare the text of HB 931 with Kurtz 2019.

was originally designed to “support teaching and research concerning the ideas, traditions, and texts that form the foundations of western and American civilization” (Florida State Senate 2022, 103). The bill was proposed by Adrian Lukis, DeSantis’s former chief of staff. When he worked on the bill, Lukis represented the Council on Public University Reform, a dark-money group with no public presence. He wrote a memo proposing a stand-alone Hamilton Center, that could conduct its own hiring, noting that “If Hamilton Center faculty were to be hired through *existing* departments, the result would be a replication of what already exists.” Instead, the goal was to provide “*choice* for Florida’s students and their parents...dissatisfied with the present offerings” (quoted in Pettit 2022). The provost noted that, as proposed, the center would likely raise concerns among faculty and accreditors since the trustees would appoint its director. The provost also observed that the proposal explicitly described the center’s purpose as offering “a conservative agenda to influence the curriculum” (Pettit 2022).

The most controversial aspects of the proposed Hamilton Center were not ultimately included in HB 931. The following year, however, SB 266 greatly expanded the now-existing Center, allowing it to accept private donations and transforming it into a unit that could “enroll students, hire faculty, ensure a pathway to tenure for faculty, develop curricula and courses, establish certificate and degree programs, establish major and minor programs, and fulfill other actions approved by the president of the university” (Florida State Senate 2023). Several faculty interviewed for the AAUP Special Report on Florida “expressed concern that ‘no one knows where this came from’ and ‘no one asked for it,’” noting that it “duplicates existing programs,” and that the hiring policies remain “at best opaque and at worst ideologically biased” (AAUP 2023). The Hamilton Center is similar to other academic centers created by activist trustees, state legislators, and governors, including the School of Civic Life and Leadership at UNC-Chapel Hill, the Institute of American Civics at the University of Tennessee-Knoxville, the Civitas Institute at the University of Texas-Austin, and the School of Civic and Economic Thought and Leadership at Arizona State University (Pettit 2022).

While Ohio’s anti-DEI bill (SB 83) gained considerable attention during the 2023 legislative cycle, Ohio’s SB 117 survived. The legislation appropriated \$24 million over two years to create “intellectual diversity” centers at Ohio State University, the University of Toledo,

Miami University, Cleveland State, and the University of Cincinnati (Nietzel 2023). By law, each center is governed by a council appointed by the trustees, with a director who “shall have the sole and exclusive authority to manage the recruitment and hiring process” and to “approve the center’s curriculum.” Each center is also to have a minimum of fifteen tenure-track professors, and “no faculty outside of the center shall have the authority to block faculty hires into the center” (Ohio Senate 2023). Passed in the legislature along partisan lines, the centers concentrate faculty hiring and curriculum development with the director—there is no faculty input. The centers themselves were imposed without faculty input; in some cases, universities did not know that the centers were even being considered (Nietzel 2023). Two representatives from the American Council of Trustees and Alumni, as well as representatives from the National Association of Scholars, Speech First, the Jack Miller Center, and Adam Kissel for Higher Education Reform (Heritage Foundation) spoke in favor of the bill (Ohio Legislature 2023).⁵⁴ In a statement celebrating the bill’s passage, the main sponsor stressed its necessity, arguing that “ideology is replacing the lessons of history on campus. And the less students learn about and embrace America’s founding principles and ideals, the more free speech is disappearing from our citadels of higher education and, subsequently, our entire nation” (Cirino 2023).

The creation of new academic programs and centers that exist outside faculty oversight and institutional shared governance is a worrying development, especially since they are the outcome of a right-wing echo chamber that specializes in raising concerns about critical race theory (CRT), DEI, and lack of “viewpoint diversity.” These centers weaken the ability of faculty to collectively determine the curriculum based on their expertise.

Breaches of Autonomy

Several states have also introduced bills that might be described as naked curricular power grabs by the state legislature. In often novel ways, these breaches of institutional autonomy consolidate decision-making authority in the hands of state legislatures or politically appointed

⁵⁴ Speech First is a dark-money group that specializes in suing colleges and universities around issues of campus speech (Wilson and Kamola 2021). The Jack Miller Center is a conservative think tank that focuses on encouraging the teaching of “America’s founding principles and history,” and is funded by the Charles Koch Foundation among other right-wing megadonors (Sourcewatch n.d.).

governing boards. During the 2023 legislative cycle, for example, Republicans in the Tennessee House introduced HB 1115, which would have granted the state's higher education commission carte blanche authority to "terminate" any academic program over concerns about its "academic quality," enrollment issues, credentialing, or cost (Tennessee State Legislature 2023). The single-page bill did not include faculty oversight, due process, or protections for tenured faculty.

Florida has seen several bills that represent clear breaches of institutional autonomy. For example, in 2022, Florida's SB 520 made searches for public college and university presidents confidential. This change facilitated DeSantis's ability to appoint political allies into university leadership positions, including the appointment of his political ally Richard Corcoran to the presidency of New College (AAUP 2023, 14–15).

In addition to the creation of the Hamilton Center, Florida's SB 266 also drew upon language passed in the "Stop W.O.K.E. Act" (HB 7) to justify granting governing boards the ability to decide curricular matters. Initially introduced as HB 999, the bill received considerable attention due to its explicit, sweeping efforts to redefine curriculums on college campuses. The original text called on the Board of Governors to ensure that "existing academic programs...align [n] with the university's mission" and required them to "remov[e] from its programs any major or minor in Critical Race Theory, Gender Studies, or Intersectionality, or any derivative major or minor of these belief systems," as well as any classes that include "divisive concepts" as laid out in state statute s. 1000.05(4)(a), created by HB 7 (Florida House of Representatives 2023a). The version eventually signed by Governor DeSantis (SB 266) was scaled back but still offers a dramatic example of curricular control. SB 266 empowers the Board of Governors (BOG), which oversees public universities, and the State Board of Education (SBE), which oversees public state colleges, to determine whether a course can count toward a core requirement (Kumar 2023b). The boards can assess whether a class "teaches identity politics, violates s. 1000.05, or is based on theories that systemic racism, sexism, oppression, and privilege are inherent in the institutions of the United States and were created to maintain

social, political, and economic inequities” (Florida State Legislature 2023).⁵⁵ Classes deemed in violation of these standards may be excluded from the list of those meeting general education requirements.

The impact of this legislation became clear in November 2023 when Commissioner of Education, Manny Diaz, Jr., requested that the BOG and SBE remove “Principles of Sociology” from the list of general education core classes (Kumar 2023a). In a social media post, Diaz derided sociology—and, by extension, all sociologists in Florida’s higher education institutions—saying the discipline had been “hijacked by left-wing activists and no longer serves its intended purpose as a general knowledge course for students” (quoted in Supiano 2024). In January 2024 both boards voted to delist the class (Supiano 2024; Hartocollis 2024). At the same meeting, the SBE also voted to ban DEI efforts in the Florida college system (Florida Department of Education 2024).

Conclusion

Understanding the political infrastructure behind the legislative attacks on academic freedom and university autonomy is essential to mounting an effective response to their threats. As demonstrated in this report, right-wing and libertarian think tanks have successfully built an echo chamber manufacturing a dense narrative that higher education is pushing “woke ideology,” beholden to CRT and DEI and hostile to viewpoint diversity. This think-tank echo chamber ignores how scholars have critiqued many of the political and ideological claims—about race, gender, American history, individualism, and Western Civilization—made by these organizations and their wealthy donors. Rather than engaging the arguments, however, the think tanks have sought to use political influence to pressure colleges to teach their preferred content.

The five kinds of legislation examined in this report should be understood as efforts to lock in the culture-war backlash against education that emerged as a political response to both the Black Lives Matter protests and greater LGBTQ+ visibility. Academic gag orders have

⁵⁵ For a summary of the differences between HB 999 and SB 266, see Kumar (2023b).

created a chilling effect on faculty while contributing to the culture-war narrative of a crisis in education. Such orders assume that students require state laws to protect them from predatory faculty who would otherwise compel them to affirm divisive concepts. These bills have become more aggressive over time, evolving from bans on campus trainings to efforts aimed at shaping speech in the classroom. By 2023 gag orders had successfully opened the door for anti-DEI bills, which represented an evolution from regulating faculty speech to the transformation of academic institutions. Likewise, bills weakening tenure and accreditation constrain the ability of faculty and academic institutions to respond to these political interventions. Finally, such efforts find fruition in bills that grant legislatures, boards, and administrators an ever-greater ability to steer curriculums. Further marginalizing faculty, political actors create centers and programs that operate outside the normal practices of shared governance. Understanding the political infrastructure behind this complicated and evolving legislative threat is essential to mounting an effective defense of academic freedom and university autonomy.

Works Cited

- AAUP. 2023. *Report of a Special Committee: Political Interference and Academic Freedom in Florida's Public Higher Education System*. American Association of University Professors (website). December 2023. https://www.aaup.org/file/AAUP_Special_Committee_Report_on_Florida_final.pdf.
- Cirino, Jerry C. 2023. "Special Commentary by Senator Cirino on Landmark Higher Education Reform," Ohio Senate (official website). July 7, 2023. <https://www.ohiosenate.gov/members/jerry-c-cirino/news/special-commentary-by-senator-cirino-on-landmark-higher-education-reform>.
- Florida Department of Education. 2024. "Latest News: State Board of Education Passes Rule to Permanently Prohibit DEI in the Florida College System." Florida Department of Education (official website). January 17, 2024. <https://www.fldoe.org/newsroom/latest-news/state-board-of-education-passes-rule-to-permanently-prohibit-dei-in-the-florida-college-system.stml>.
- Florida House of Representatives. 2023. "HB 999." LegiScan. Filed February 21, 2023. <https://legiscan.com/FL/text/H0999/id/2711114/Florida-2023-H0999-Introduced.pdf>.
- . 2023a. "CS/CS/HB 931." LegiScan. Filed February 17, 2023. <https://legiscan.com/FL/text/H0931/id/2797164/Florida-2023-H0931-Enrolled.pdf>.
- . 2021. "CS/CS/HB 233." LegiScan. Filed January 13, 2021. <https://legiscan.com/FL/text/H0233/id/2359408>.
- Florida State Senate. 2023. "CS for CS for CS for SB 266, 1st Engrossed." LegiScan. Filed February 28, 2023. <https://legiscan.com/FL/text/S0266/id/2798308>.

- . 2022. "SB 2524, 1st Engrossed." LegiScan. Filed February 10, 2022. <https://legiscan.com/FL/text/S2524/id/2548804>.
- Florida Senate Committee on Education. 2021. "2020–2022: Committee on Education," January 26, 2021 meeting (audio). <https://www.flsenate.gov/Committees/2020-2022/ED?Session=2021> (transcript available upon request).
- Gallup. 2018. "The University of Nebraska System Climate Study: Understanding Perceptions of Students, Faculty, Staff and Alumni." University of Nebraska (official website). September 2018. https://nebraska.edu/~media/UNCA/docs/news/NU_2018_Climate_Study_Full_Report.
- Hankinson, Simon. 2023. "How Discriminatory DEI Ideology Replicates Itself in the Federal Bureaucracy." Heritage Foundation (website). October 17, 2023. <https://www.heritage.org/progressivism/commentary/how-discriminatory-dei-ideology-replicates-itself-the-federal-bureaucracy>.
- Hartocollis, Anemona. 2024. "Florida Eliminates Sociology as a Core Course at Its Universities." *New York Times*, January 26, 2024.
- Kumar, Divya. 2023a. "Florida Board Advances Rule Limiting Discussion of Social Issues on Campus." *Tampa Bay Times*, November 9, 2023.
- . 2023b. "Florida Senate Passes a Watered-Down Slate of Higher Education Changes." *Tampa Bay Times*, April 28, 2023.
- Kurtz, Stanley. 2019. "The Campus Intellectual Diversity Act." National Association of Scholars (website). February 12, 2019. <https://www.nas.org/blogs/article/the-campus-intellectual-diversity-act>.
- Larson, Jennifer, Mark McNeilly, and Timothy J. Ryan. 2022. "Free Expression and Constructive Dialogue in the University of North Carolina System: A Report." Free Expression and Constructive Dialogue at the University of North Carolina (website). March 2, 2022. <https://fecdsurveyreport.web.unc.edu/wp-content/uploads/sites/22160/2020/02/UNC-Free-Expression-Report.pdf>.
- Martin Center Staff. 2020. "Blueprint for Reform: Viewpoint Diversity" James G. Martin Center for Academic Renewal (website). September 1, 2020. <https://www.jamesgmartin.center/wp-content/uploads/2020/08/Blueprint-for-Reform-Viewpoint-Diversity.pdf>.
- Nietzel, Michael T. 2023. "Ohio Will Spend \$24 Million To Create Five University 'Intellectual Diversity' Centers." *Forbes*, July 18, 2023.
- . 2022. "Students And Employees Snub Florida's Mandated 'Intellectual Freedom And Viewpoint Diversity' Survey." *Forbes*, August 28, 2022.
- Ohio Legislature. 2023. "Senate Bill 117 Committee Activity." The Ohio Legislature (official website). Last updated June 7, 2023. <https://www.legislature.ohio.gov/legislation/135/sb117/committee>.
- Ohio Senate. 2023. "Am. Sub. S. B. No. 117." LegiScan. September 12, 2023. <https://legiscan.com/OH/text/SB117/id/2831640/Ohio-2023-SB117-Engrossed.pdf>.
- Pettit, Emma. 2022. "How a Center for Civic Education Became a Political Provocation." *Chronicle of Higher Education*, February 22, 2022.
- Pounds, Benjamin. 2023. "University of Tennessee Students Positive about Campus Free

- Speech." *Tennessee Outlook*, September 8, 2023. <https://tennesseelookout.com/2023/09/08/university-of-tennessee-students-positive-about-campus-free-speech/>.
- Robinson, Jenna A. 2023. "A Florida Bill to Promote Fairness on Campus." James G. Martin Center for Academic Renewal (website). May 5, 2023. <https://www.jamesgmartin.center/2023/05/a-florida-bill-to-promote-fairness-on-campus/>.
- Sachs, Jeffrey Adam, and Jeremy C. Young. 2024. "The Censors' Next Target." *Inside Higher Education*, January 10, 2024.
- Shoop, Beth. 2022. "'Fishing for Answers': Free Speech Survey Delayed Until Fall 2022 Amid Campus Community Concerns." *Daily Cardinal*, April 11, 2022.
- Sourcewatch. n.d. "Jack Miller Center." The Center for Media and Democracy (website). Last updated June 25, 2014. https://www.sourcewatch.org/index.php/Jack_Miller_Center.
- Supiano, Beckie. 2024. "What Removing Sociology as a Core-Course Option Means for Florida's Students." *Chronicle of Higher Education*, January 26, 2024.
- Tennessee State Legislature. 2023. "House Bill 1115." LegiScan. Filed January 31, 2023. <https://legiscan.com/TN/text/HB1115/id/2671494/Tennessee-2023-HB1115-Draft.pdf>.
- . 2021. "House Bill No. 2670." LegiScan. Filed February 2, 2022. <https://legiscan.com/TN/text/HB2670/id/2569512/Tennessee-2021-HB2670-Chaptered.pdf>.
- Vivian, Bradford. 2022. *Campus Misinformation: The Real Threat to Free Speech in American Higher Education*. Oxford: Oxford University Press.
- Wilson, Ralph, and Isaac Kamola. 2021. *Free Speech and Koch Money: Manufacturing a Campus Culture War*. London: Pluto Press.
- Zahneis, Megan. 2022. "A Free-Speech Survey in Wisconsin Sparked Concerns. So a Chancellor Quit." *Chronicle of Higher Education*, April 5, 2022.

Part 3: Appendices

Appendix 1: 2021–2023 Bills Targeting Higher Education by Type

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
AL	SB 234	2/23/21				X		
AL	HB 11	1/11/22		X				
AL	HB 8	1/11/22		X				
AL	HB 9/SB 7	1/11/22		X				
AL	HB 312	2/8/22		X				
AL	SB 292	3/3/22		X				
AL	HB 7	1/20/23		X	X			
AK	HB 228	1/7/22		X				
AK	HB 330	2/16/22		X				
AK	HB 391	2/22/22		X				
AZ	HCR 2001	1/12/22		X				
AZ	SB 1412	3/29/22		X				
AZ	SB 1694	2/1/23			X			
AR	HB 1218	1/19/21		X				
AR	SB 71	1/18/23			X			
FL	HB 233	1/13/21	6/22/21					X
FL	SB 520	10/18/21	3/15/22					X
FL	SB 242/ HB 57	1/11/22		X				
FL	HB7/ SB 148	1/11/22	4/22/22	X				
FL	SB 7044	2/9/22	4/19/22			X	X	
FL	SB 958/ HB 931	2/17/23	4/15/23		X			X
FL	SB 266/ HB 999	2/21/23	5/15/23	X	X	X	X	X
FL	SB 244	2/24/23		X				
GA	HB 888	1/12/22		X				
GA	SB 377	1/26/22		X				

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
GA	SB 261	2/27/23			X			
HI	SB 1328	1/27/21				X		
HI	SB 1394	1/27/21				X		
ID	HB 352	4/6/21		X				
ID	HB 375	4/19/21		X				
ID	HB 377	4/21/21	4/28/21	X				
ID	HB 488	1/28/22		X				
IL	HB 2464	2/17/21				X		
IL	HB 5505	1/28/22		X				
IL	HB 2184	2/7/23		X				
IN	SB 167	1/4/22		X				
IN	HB 1228	1/6/22		X				
IN	HB 1362	1/11/22		X				
IN	SB 415	1/11/22		X				
IN	HB 1134	1/13/22		X				
IN	HB 1389	1/13/22		X				
IN	HB 1338	1/17/23		X	X			
IA	SF 41/ HF 49	1/11/21				X		
IA	HF 222	1/27/21		X				
IA	H 496	2/11/21				X		
IA	SF 478	2/25/21		X				
IA	HF 802	3/8/21	6/8/21	X				
IA	SF 81	1/17/23			X			
IA	HF 48	1/17/23				X		
IA	SF 437	2/27/23				X		
IA	HSB 218/ HF 616	2/28/23			X			
KS	SB 155	3/2/23			X			
KS	HB 2460	3/16/23			X			
KY	HB 14	1/4/22		X				
KY	HB 18	1/4/22		X				
KY	HB 487	2/11/22		X				

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
KY	HB 706	3/1/22		X				
LA	HB 564	4/2/21		X				
LA	SB 174	3/31/23				X		
LA	SB 128	4/10/23			X			
MN	SF 1495	2/9/23		X				
MN	HF 2019	2/20/23		X				
MS	HB 437	1/5/22		X				
MS	SB 2113	1/12/22	3/14/22	X				
MS	SB 2171	1/13/22		X				
MS	HB 1491	1/17/22		X				
MS	HB 1492/ 1493/149 4/1497	1/17/22		X				
MS	HB 1495	1/17/22		X				
MS	HB 1496	1/17/22		X				
MS	SB 2785	1/16/23				X		
MO	HB 952	1/28/21		X				
MO	HB 1484	1/6/22		X				
MO	HB 1634	1/6/22		X				
MO	SB 645	1/10/22		X				
MO	HB 75	1/4/23		X				
MO	SB 410	1/4/23		X	X			
MO	HB 75	1/4/23			X			
MO	HB 1196	2/21/23			X			
MO	SB 680	2/27/23			X			
MT	SB 222	1/26/23		X	X			
NE	LB 1077	1/18/22		X				
NH	HB 1313	11/20/21		X				
NH	HB 1255	1/8/22		X				
NJ	A 3647/ A 6140/ SB 664	1/11/22		X				

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
NY	A8253	1/5/22		X				
NC	HB 8	1/25/2023	9/29/23				X	
NC	SB 364	3/23/23	6/27/23 ⁵⁶		X			
NC	SB 680	4/6/23					X	
NC	HB 607	4/13/23			X			
NC	H 715	4/18/23				X		
ND	SB 2247	1/13/23	4/24/23	X	X			
ND	HB 1446	1/18/23		X		X		
OH	HB 327	5/25/21		X				
OH	SB 83	3/14/23		X				
OH	HB 151/ SB 83 ⁵⁷	4/6/23		X	X	X		
OH	SB 117	5/3/23	7/7/23 ⁵⁸					X
OH	HB 33	6/15/23			X			
OK	HB 1775	2/1/21	5/7/21	X				
OK	SB 614	2/23/21		X				
OK	HB 2988	2/7/22		X				
OK	SB 1141	2/7/22		X				
OK	SB 1401	2/7/22		X				
OK	SB 870	1/19/23			X			
OK	SB 1008	1/19/23			X			
OK	SB 348	2/6/23		X				
OR	HB 2430	1/9/23		X				
OR	HB 2475	1/9/23		X				
OR	HB 2430/ HB 2475 ⁵⁹	1/9/23			X			

⁵⁶ The bill was vetoed on June 16, 2023, by Governor Roy Cooper (D) but overridden in the Senate (6/20/23) and House (6/27/23).

⁵⁷ Ohio HB 151 and SB 83 are companion bills, but PEN America lists them separately.

⁵⁸ Ohio SB 83 and SB 117 were added to the budget bill in July 2023. However, SB 83 proved too controversial and was eventually removed. For context, see Sarah Szilagy, "The Sweeping Higher Education Changes That Didn't Come to Pass," *13News*, July 12, 2023, <https://www.wowktv.com/ohio-3/the-sweeping-higher-education-changes-that-didnt-come-to-pass/>.

⁵⁹ Oregon HB 2430 and HB 2475 were introduced as separate bills but are nearly identical in their wording. PEN America lists them separately but the "DEI Legislation Tracker" at the *Chronicle of Higher Education's* combines

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
PA	HB 1532	6/7/21		X				
SC	H 4325	5/4/21		X				
SC	H 4605	1/11/22		X				
SC	H 4799	1/13/22		X				
SC	H 4522	11/10/22				X		
SC	S 246	11/30/22		X				
SC	H 3464	1/10/23		X				
SC	H 3827/ S 0424	1/26/23		X				
SC	S 0538	2/15/23				X		
SC	H 4290	4/6/23			X			
SC	H 4289	4/6/23			X			
SD	HB 1012	1/11/22	3/21/22	X				
SD	HB 1309	2/4/22		X				
TN	HB 2313/ SB 2298	2/1/22		X				
TN	HB 2417/ SB 2283	2/1/22		X				
TN	HB 2670/ SB 2290	2/1/22	4/8/22	X				X
TN	SB 102/ HB 158	1/11/23	5/17/23		X			
TN	HB 571	1/25/23			X			
TN	HB 1115	1/31/23						X
TN	HB 571/ SB 603	3/8/23		X				
TN	HB 1376/ SB 817	3/8/23	4/23/23	X				
TX	SB 1159	3/8/21				X		
TX	SB 1623	3/11/21				X		
TX	HB 1006	12/13/22		X	X			
TX	HB 1033	12/19/22		X				
TX	HB 1046	12/19/22			X			

them into a single entry. <https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts>

State	Bill Number	Date Introduced	Date Signed	Type of Legislation				
				Gag Orders	Anti-DEI	Weaken Tenure	Accreditation	Governance
TX	HB 1607	1/25/23		X				
TX	HB 1	1/18/23	6/18/23		X			
TX	HB 3164	3/1/23			X			
TX	SB 1987	3/8/23					X	
TX	SB 2313/ HB 5001	3/10/23			X			
TX	HB 5140	3/10/23			X			
TX	SB 16	3/10/23		X				
TX	HB 5127/ SB 17	3/10/23	6/17/23		X			
TX	SB 18	3/10/23	6/17/23			X		
TX	SB 2335/ HB 4880	3/10/23					X	
UT	SB 257	2/25/22		X				
UT	HB 428	2/10/23		X				
UT	HB 451	2/23/23		X	X			
UT	SB 283	2/23/23			X			
WV	SB 498	1/28/22		X				
WV	SB 33/ HB 2423	1/11/23		X				
WV	HB 3503	2/14/23			X			
WI	SB 409/ AB 413	6/10/21	Vetoed: 4/15/22	X				
WI	AB 43	2/15/23			X			
WY	SB 103	2/15/22		X				
WY	SB 1	2/25/22		X				
TOTALS:				99	40	20	6	7

Source: See the discussion of methods in each chapter for an explanation of how the bills were identified.

Appendix 2: Top 25 Donors Funding the Think Tanks Described in Chapter 2 (2020–22)

DONORS	RECIPIENTS												Grand Total
	ACTA	ALEC	Claremont Institute	CPI	EPPC	Heritage	IFF	Martin Center	Manhattan Institute	NAS	SPN	TPPF	
DonorsTrust	\$3,692,850	\$738,800	\$377,500	\$2,791,750	\$1,060,637	\$1,176,578	\$61,000		\$596,500	\$27,720	\$26,031,725	\$888,500	\$37,443,560
Roe Foundation		\$2,500					\$20,000				\$7,850,000	\$30,000	\$7,902,500
Fidelity Investments Charitable Gift Fund	\$154,200	\$11,950	\$330,780	\$759,100	\$179,646	\$2,999,113	\$14,050	\$18,450	\$295,975	\$304,928	\$594,305	\$2,077,537	\$7,740,034
Lynde and Harry Bradley Foundation	\$30,000	\$1,850,000		\$350,000	\$850,000				\$1,600,000	\$150,000	\$325,000	\$525,000	\$5,680,000
Searle Freedom Trust		\$925,000							\$1,900,000		\$1,772,650	\$1,000,000	\$5,597,650
Sarah Scaife Foundation	\$325,000	\$300,000			\$920,000				\$1,710,000	\$850,000	\$925,000		\$5,030,000
National Philanthropic Trust	\$290,000	\$825,000	\$50,000	\$27,930	\$567,000	\$1,222,500			\$743,000	\$423,140	\$275,000	\$29,500	\$4,453,070
85 Fund		\$534,500			\$3,168,000	\$150,000			\$450,000				\$4,302,500
Schwab Charitable Fund	\$125,680	\$101,450	\$247,245	\$585,925	\$82,950	\$1,600,157	\$43,500	\$28,100	\$477,875	\$103,220	\$190,425	\$529,800	\$4,116,327
National Christian Charitable Foundation		\$10,000	\$439,750	\$658,087	\$182,200	\$1,999,335			\$30,600		\$116,850	\$464,050	\$3,900,872
Walton Family Foundation									\$1,050,000		\$2,300,000	\$450,000	\$3,800,000
Charles Koch Institute	\$12,000	\$562,000			\$95,000	\$612,000	\$7,127		\$394,000			\$2,043,000	\$3,725,127
Diana Davis Spencer Foundation	\$2,000,000	\$550,000			\$150,000					\$425,000	\$100,000	\$200,000	\$3,425,000

	ACTA	ALEC	Claremont Institute	CPI	EPPC	Heritage	IFF	Martin Center	Manhattan Institute	NAS	SPN	TPPF	Grand Total
Vanguard Charitable Endowment Program	\$67,000	\$115,500	\$162,700	\$588,000	\$52,000	\$851,900	\$26,000		\$928,500	\$69,000	\$301,000	\$140,250	\$3,301,850
Bradley Impact Fund	\$22,000		\$28,000	\$1,066,460	\$627,110	\$244,721		\$20,000	\$40,100	\$42,000	\$45,050	\$452,525	\$2,587,966
Paulson Family Foundation									\$2,400,000				\$2,400,000
John William Pope Foundation	\$10,000	\$75,000						\$1,442,800	\$175,000	\$125,000	\$390,000		\$2,217,800
J. E. And L. E. Mabee Foundation												\$2,000,000	\$2,000,000
New Venture Fund												\$1,965,000	\$1,965,000
Woodforest Charitable Foundation				\$1,675,000									\$1,675,000
Rydin Foundation				\$1,500,000									\$1,500,000
Seminar Network												\$1,280,000	\$1,280,000
Thomas W. Smith Foundation		\$300,000									\$600,000	\$350,000	\$1,250,000
Servant Foundation		\$95,000	\$10,000	\$1,019,500	\$33,000	\$49,360							\$1,206,860
Morgan Stanley Global Impact Funding Trust Inc.			\$140,000	\$80,000	\$10,000	\$235,000			\$100,000	\$50,000		\$500,000	\$1,115,000
Grand Total	\$6,728,730	\$6,996,700	\$1,785,975	\$11,101,752	\$7,977,543	\$11,140,664	\$171,677	\$1,509,350	\$12,891,550	\$2,570,008	\$41,817,005	\$14,925,162	\$119,616,116

Source: Data compiled from 990 tax records by Ralph Wilson, Corporate Genome Project, February 2024.

Appendix 3: Side-by-Side Comparison of Executive Order 13950, CRA and Heritage Foundation Model Bills, and Florida’s HB 7

<p style="text-align: center;">“Executive Order on Combating Race and Sex Stereotyping”^a</p>	<p style="text-align: center;">Center for Renewing America’s “Model School Board Language to Prohibit Critical Race Theory”^b</p>	<p style="text-align: center;">Heritage Foundation, “Protecting K–12 Students from Discrimination”^c</p>	<p style="text-align: center;">Florida’s House Bill 7 (“Stop WOKE Act”)^d</p>
<p>From Section. 2(a-c) which defines DIVISIVE CONCEPTS as “the concept that”:</p>	<p>From Section 1.B which defines DIVISIVE CONCEPTS as “any concept that espouses:”</p>	<p>From Section b which state “No public education employee shall compel a teacher or student to adopt, affirm, adhere to, or profess ideas...including but not limited to the following:”</p>	<p>From Section 2 (4)(a) which states that “It shall constitute discrimination...to subject any student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels student or employee to believe any of the following concepts”:</p>
<p>(1) one race or sex is inherently superior to another race or sex;</p>	<p>1. One sex, race, <u>ethnicity</u>, color, or national origin is inherently superior to any other sex, race, <u>ethnicity</u>, color, or national origin;</p>	<p>1. That individuals of any race, <u>ethnicity</u>, color, or national origin are inherently superior or inferior;</p>	<p>1. Members of one race, <u>color</u>, sex, or national origin are morally superior to members of another race, color, sex, or national origin.</p>
<p>(2) the United States is fundamentally racist or sexist;</p>	<p>2. The United States is fundamentally or systemically racist or sexist;</p>		
	<p>3. The Declaration of Independence, the Constitution of the United States, or The Federalist Papers are fundamentally racist or oppressive documents;</p>		

<p>“Executive Order on Combating Race and Sex Stereotyping”</p>	<p>Center for Renewing America’s “Model School Board Language to Prohibit Critical Race Theory”</p>	<p>Heritage Foundation, “Protecting K–12 Students from Discrimination”</p>	<p>Florida’s House Bill 7 (“Stop WOKE Act”)</p>
<p>3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;</p>	<p>4. An individual, by virtue of the sex, race, ethnicity, religion, <u>color</u>, or <u>national origin</u> attributed to them is inherently racist, sexist, or otherwise prejudiced or oppressive, whether consciously or unconsciously;</p>		<p>2. An individual, by virtue of his or her race, color, sex, or <u>national origin</u>, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.</p>
<p>(4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;</p>	<p>5. An individual should be discriminated against or receive adverse treatment solely or partly because of the sex, race, ethnicity, religion, <u>color</u>, or <u>national origin</u> attributed to them;</p>	<p>2. That individuals should be adversely or advantageously treated on the basis of their race, ethnicity, color, or national origin;</p>	<p><i>See point 6 below.</i></p>
<p>(5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex;</p>			<p><i>See point 4 below.</i></p>
<p>(6) an individual’s moral character is necessarily determined by <u>his or her race</u> or sex;</p>	<p>6. An individual’s moral character is necessarily determined by the sex, race, ethnicity, religion, <u>color</u>, or <u>national origin</u> attributed to them;</p>		<p>3. An individual's moral character or status as either privileged or oppressed is necessarily determined by <i>his or her</i> race, color, sex, or <u>national origin</u>.</p>
			<p>4. 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.</p>

<p>“Executive Order on Combating Race and Sex Stereotyping”</p>	<p>Center for Renewing America’s “Model School Board Language to Prohibit Critical Race Theory”</p>	<p>Heritage Foundation, “Protecting K–12 Students from Discrimination”</p>	<p>Florida’s House Bill 7 (“Stop WOKE Act”)</p>
<p>(7) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;</p>	<p>7. An individual, by virtue of the sex, race, ethnicity, religion, color, or national origin attributed to them, bears responsibility for actions committed in the past by other members of the same (or any other) sex, race, ethnicity, religion, color, or national origin;</p>	<p>3. That individuals, by virtue of race, ethnicity, color, or national origin, bear collective guilt and are inherently responsible for actions committed in the past by other members of the same race, ethnicity, color, or national origin.</p>	<p>5. 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.</p>
<p><i>See point 4 above.</i></p>	<p><i>See point 5 above.</i></p>	<p><i>See point 2 above.</i></p>	<p>6. 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.</p>
<p>(8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex;</p>	<p>8. Any individual should be targeted and made to feel discomfort, guilt, anguish, or any other form of psychological distress due to the sex, race, ethnicity, religion, color, or national origin attributed to them;</p>		<p>7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.</p>
<p><i>Similar to point 4 above.</i></p>	<p>9. An individual, by virtue of the sex, race, ethnicity, religion, color, or national origin attributed to them should be actively or passively discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion;</p>	<p><i>Similar to point 2 above.</i></p>	<p><i>Similar to point 6 above.</i></p>

<p>“Executive Order on Combating Race and Sex Stereotyping”</p>	<p>Center for Renewing America’s “Model School Board Language to Prohibit Critical Race Theory”</p>	<p>Heritage Foundation, “Protecting K–12 Students from Discrimination”</p>	<p>Florida’s House Bill 7 (“Stop WOKE Act”)</p>
<p>(9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.</p>	<p>10. Meritocracy or traits such as a work ethic or devotion to duty and obligations are racist or sexist, or were created or recognized by a particular race to oppress another race; or</p>		<p>8. 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.</p>
	<p>11. Any effort to promote racial diversity in any aspect of a program funded in whole or part by taxpayers;</p>		
	<p>12. Any reference to group differences within a given setting along cultural, ethnic, gender, gender identity, national origin, race, religion, and sexual orientation lines;</p>		
	<p>13. Any policies, practices, and procedures designed and/or implemented with reference to those group differences;</p>		
	<p>14. Any usage of “antiracism” as a concept that incorporates “equity” theory, which necessarily connotes a form of systemic racism, or any usage of “antiracism” that explicitly or implicitly promotes racial discrimination as necessary to advance equity and any form of justice; or</p>		

<p>“Executive Order on Combating Race and Sex Stereotyping”</p>	<p>Center for Renewing America’s “Model School Board Language to Prohibit Critical Race Theory”</p>	<p>Heritage Foundation, “Protecting K–12 Students from Discrimination”</p>	<p>Florida’s House Bill 7 (“Stop WOKE Act”)</p>
<p>(b) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.</p> <p>(c) “Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.</p>	<p>9. The term “divisive concept” includes any other form of race or sex stereotyping or any other form of race or sex scapegoating; (a) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex;</p> <p>(b) “Race or sex scapegoating” encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.</p>		

Sources:

- ^a Executive Office of the President, “Executive Order on Combating Race and Sex Stereotyping,” September 22, 2022. Trump Whitehouse Archives. <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.
- ^b Citizens for Renewing America, “Model School Board Language to Prohibit Critical Race Theory,” June 21, 2021, 1–2. Available at <https://citizensrenewingamerica.com/issues/model-school-board-language-to-prohibit-critical-race-theory-2/> (last accessed October 4, 2023).
- ^c Heritage Foundation. N.d. “Protecting K-12 Students from Discrimination.” Available at <https://www.heritage.org/model-legislation/protecting-k-12-students-discrimination/> (last accessed April 23, 2024).
- ^d Florida House of Representatives (2022) “CS/HB 7, Engrossed 2,” 3. Available at <https://www.flsenate.gov/Session/Bill/2022/7/BillText/er/PDF/> (last accessed October 12, 2023).

Notes:

1. **Bold** indicates language present in Executive Order 13950, and present throughout other versions (exactly or nearly identical).
2. Underline indicates language added in subsequent model bills and carried through to FL HB 7.

Appendix 4: Academic Gag Orders Signed into Law

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Signed	House/Senate Composition ⁺
OK	HB 1775	2/1/21	<i>Primary:</i> Rep. Kevin West (R) <i>Co-sponsors:</i> 21 Republicans	<i>Primary:</i> Sen. David Bullard (R) <i>Co-sponsors:</i> 10 Republicans	Kevin Stitt (R) 5/7/21	<i>House:</i> 82 (R)/101 (81%) <i>Senate:</i> 39 (R)/48 (81%)
IA	HF 802	3/8/21	Committee on Judiciary. Chair: Steven Holt (R). Vice-Chair: Stan Gustafson (R). 12 - 8 Republican majority.		Kim Reynolds (R) 6/8/21	<i>House:</i> 32 (R)/50 (64%) <i>Senate:</i> 59 (R)/101 (58%)
ID	HB 377	4/21/21	<i>House Ways and Means Committee.</i> Chair: Rep. Paul Amador (R). 4-3 Republican majority.		Brad Little (R) 4/27/21	<i>House:</i> 58 (R)/70 (83%) <i>Senate:</i> 28 (R)/35 (80%)
FL	HB 7/ SB 148	1/11/22	Rep. Bryan Avila (R)	Sen. Manny Diaz (R)	Ron DeSantis (R) 4/22/22	<i>House:</i> 85(R)/120 (71%) <i>Senate:</i> 28(R)/40 (70%)
SD	HB 1012	1/11/22	<i>Committee on Education.</i> Chair: Lana Greenfield (R). Vice-Chair: Sue Peterson (R). 13 – 2 Republican majority.	<i>Committee on Education.</i> Chair: Blake Curd (R). Vice-Chair: Kyle Schoenfish (R). 6–1 Republican majority.	Kristi Noem (R) 3/21/22	<i>House:</i> 63(R)/70 (90%) <i>Senate:</i> 31(R)/35 (89%)
MS	SB 2113	1/12/22	Vote to approve: <i>Yeas</i> (75 Republicans); <i>Nays</i> (42 Democrats & 1 Republican)	<i>Introduced:</i> Sen. Michael McLendon (R) <i>Co-sponsors:</i> 23 Republicans.	Tate Reeves (R) 3/14/22	<i>House:</i> 76(R)/122 (62%) <i>Senate:</i> 36(R)/52 (69%)
TN	HB 2670/ SB 2290	2/1/22	<i>Primary:</i> Rep. Cameron Sexton (R) <i>Co-sponsor:</i> 26 Republicans	Sen. Mike Bell (R) <i>Co-sponsor:</i> 6 Republicans	Bill Lee (R) 4/8/22	<i>House:</i> 75(R)/99 (83%) <i>Senate:</i> 27(R)/33 (82%)

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Signed	House/Senate Composition [†]
ND	SB 2247	1/13/23	Reps. Scott Dyk (R), Bernie Satrom (R), Nathan Toman (R)	Sen. Bob Paulson (R); Randy Lemm (R), Mike Wobbema (R)	Doug Burgum (R) 4/24/22	<i>House:</i> 82(R)/94 (87%) <i>Senate:</i> 43(R)/47 (91%)
FL	SB 266/ HB 999	2/21/23	Rep. Alex Andrade (R); Senate Fiscal Policy Committee		Ron DeSantis (R) 5/15/23	<i>House:</i> 84(R)/120 (70%) <i>Senate:</i> 28(R)/40 (70%)
TN	HB 1376/ SB 817	3/8/23	<i>Primary:</i> Rep. John Ragan (R) <i>Co-sponsors:</i> 19 Republicans	<i>Primary:</i> Sen. Joseph Hensley (R) <i>Co-sponsors:</i> 3 Republicans	Bill Lee (R) 4/23/23	<i>House:</i> 75(R)/99 (83%) <i>Senate:</i> 27(R)/33 (82%)

Source: PEN America, "PEN America Index of Educational Gag Orders."

Notes:

* For House and Senate sponsors see the "Summary" page for individual bills on LegiScan.com.

[†] House and Senate composition data from National Council of State Legislatures data. Available at <https://www.ncsl.org/about-state-legislatures/state-partisan-composition>.

Appendix 5: Restrictions on DEI Signed into Law

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Governor	House/Senate Composition ⁺	Composition			
							DEI Offices?	Training?	Statements?	Preferences?
TN	SB 102/ HB 158	1/1/23	<i>Primary:</i> Rep. Jason Zachary (R) <i>Co-sponsors:</i> 16 Republicans	<i>Primary:</i> Sen. Todd Gardenhire (R) <i>Co-sponsors:</i> 9 Republicans	Bill Lee (R) Signed: 5/17/23	<i>House:</i> 75(R)/99 (83%) <i>Senate:</i> 27(R)/33 (82%)		X		
ND	SB 2247	1/13/23	Reps. Scott Dyk (R), Bernie Satrom (R), Nathan Toman (R)	Sen. Bob Paulson (R), Randy Lemm (R), Mike Wobbema (R)	Doug Burgum (R) Signed: 4/24/23	<i>House:</i> 82(R)/94 (87%) <i>Senate:</i> 43(R)/47 (91%)		X	X	
TX	HB 1	1/18/23	Rep. Greg Bonnen (R)	Sen. Joan Huffman (R), Royce West (D)	Greg Abbott (R) Signed: 6/18/23	<i>House:</i> 86(R)/150 (57%) <i>Senate:</i> 19(R)/31 (61%)	X	X		
FL	HB 931/ SB 958	2/17/23	Rep. Spencer Roach (R) <i>Co-sponsors:</i> 6 Republicans, 1 Democrat	Sen. Keith Perry (R)	Ron DeSantis (R) Signed: 5/15/23	<i>House:</i> 84(R)/120 (70%) <i>Senate:</i> 28(R)/40 (70%)			X	X
FL	SB 266/ HB 999	2/21/23	Rep. Alex Andrade (R) <i>Co-sponsors:</i> 7 Republicans	Sen. Erin Grall (R)	Ron DeSantis (R) Signed: 5/15/23	<i>House:</i> 84(R)/120 (70%) <i>Senate:</i> 28(R)/40 (70%)	X		X	X

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Governor	House/Senate Composition ⁺	Composition			
							DEI Offices?	Training?	Statements?	Preferences?
TX	HB 5127/ SB 17	3/10/23	Reps. Matthew Shaheen (R), Greg Bonnen (R)	17 Republican co-sponsors	Greg Abbott (R) Signed: 6/17/23	House: 86(R)/150 (57%) Senate: 19(R)/31 (61%)	X	X	X	X
NC	SB 364	3/23/23		16 Republican co-sponsors	Vetoed by: Roy Cooper (D) Overridden in House and Senate	House: 71(R)/120 (59%) Senate: 30(R)/50 (60%)		X	X	

Source: List of bills restricting DEI, and their various composition, comes from Chronicle Staff. 2023. "DEI Legislation Tracker." *Chronicle of Higher Education*, accessed July 14, 2023. Available at <https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts>. As of April 23, 2024, this list now includes forty-three additional anti-DEI bills introduced during the 2024 legislative cycle.

Notes:

* For House and Senate sponsors see the "Summary" page for individual bills on LegiScan.com.

+ House and Senate composition data from National Council of State Legislatures data. Available at <https://www.ncsl.org/about-state-legislatures/state-partisan-composition>.

Appendix 6: Bills Weakening Tenure Signed into Law

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Signed	House/Senate Composition ⁺
FL	SB 7044	2/9/22		<i>Primary:</i> Senate Education Committee <i>Co-sponsors:</i> Sens. Manny Diaz (R), Ray Rodrigues (R)	Ron DeSantis (R) 4/19/22	<i>House:</i> 78(R)/120 (65%) <i>Senate:</i> 24(R)/40 (60%)
FL	SB 266/ HB 999	2/21/23	Rep. Alex Andrade (R) <i>Co-sponsors:</i> 7 Republicans	Sen. Erin Grall (R)	Ron DeSantis (R) 5/15/23	<i>House:</i> 84(R)/120 (70%) <i>Senate:</i> 28(R)/40 (70%)
TX	SB 18	3/10/23	<i>Sponsors:</i> 12 Republicans	<i>Primary:</i> Rep. John Kuempel (R)	Greg Abbott (R) 6/17/23	<i>House:</i> 86(R)/150 (57%) <i>Senate:</i> 19(R)/31 (61%)

Source: See Chapter 5 for methodology in determining bills.

Notes:

* For House and Senate sponsors see the “Summary” page for individual bills on LegiScan.com.

⁺ House and Senate composition data from National Council of State Legislatures data. Available at <https://www.ncsl.org/about-state-legislatures/state-partisan-composition>.

Appendix 7: Bills Undermining Accreditation Signed into Law

State	Bill	Introduced	Sponsors (House)	Sponsors (Senate)*	Signed	House/Senate Composition ⁺
FL	SB 7044	2/9/22		<i>Primary:</i> Senate Education Committee <i>Co-sponsors:</i> Sens. Manny Diaz (R), Ray Rodrigues (R)	Ron DeSantis (R) 4/19/22	<i>House:</i> 78(R)/120 (65%) <i>Senate:</i> 24(R)/40 (60%)
NC	HB 8	1/25/23	Representative Erin Pare (R)		Roy Cooper (D) 9/29/23	<i>House:</i> 71(R)/120 (59%) <i>Senate:</i> 30(R)/50 (60%)
FL	SB 266/ HB 999	2/21/23	Rep. Alex Andrade (R) <i>Co-sponsors:</i> 7 Republicans	Sen. Erin Grall (R)	Ron DeSantis (R) 5/15/23	<i>House:</i> 84(R)/120 (70%) <i>Senate:</i> 28(R)/40 (70%)

Source: See Chapter 6 for methodology in determining bills.

Notes:

* For House and Senate sponsors see the “Summary” page for individual bills on LegiScan.com.

+ House and Senate composition data from National Council of State Legislatures data. Available at <https://www.ncsl.org/about-state-legislatures/state-partisan-composition>.