

# KNOW YOUR RIGHTS



**#TEACHTRUTH**

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

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

In New Hampshire, the legislature added two sections to the state's budget bill related to training for public employees and instruction for public school students. The following answers some FAQs about the new law in New Hampshire. If you or a colleague feel your ability to teach the truth is stifled by how your district is enforcing this New Hampshire law, you can take action. Remember that you are most protected when you speak out outside of work, at a school board meeting, in your church or other local community group. If you are represented by a union, reach out to your local representative for assistance. You can find additional help at the resources linked below.

*These dangerous attempts to stoke fears and rewrite history not only diminish the injustices experienced by generations of Americans, they prevent educators from challenging our students to achieve a more equitable future.* - BECKY PRINGLE, PRESIDENT OF THE NATIONAL EDUCATION ASSOCIATION



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## Q&A

### What is this new law and what does it do?

- o On June 25, 2021, New Hampshire adopted the [Right to Freedom from Discrimination in Public Workplaces and Education law, HB-2 at pages 145-48](#), which took effect immediately. The New Hampshire Department of Education, Department of Justice, and Commission for Human Rights have provided general FAQs on this new law [here](#). The agencies have refused to provide more specific guidance despite requests from NEA-NH and other education advocates.
- o The law prohibits public employees, including professors and K-12 educators, from teaching, instructing, inculcating, or compelling a student's belief in any of the prohibited concepts described below. The law applies to classroom instruction as well as all school-run extra-curricular activities.

- o Generally, the law prohibits teaching “that a person or a group is inherently oppressive, superior, inferior, racist, or sexist.” [FAQs §1](#). Accordingly, you may not teach that anyone is:
  - “inherently superior” to anyone else based on their age, sex, gender identity, sexual orientation, race, creed, color, marital status, family status, mental or physical disability, religion, or national origin (“protected characteristics”);
  - “inherently racist, sexist, or oppressive, whether consciously or unconsciously” because of their race, sex, or other protected characteristics;
  - or that anyone “should be discriminated against or receive adverse treatment solely or partly” because of their race, sex, or other protected characteristic;
- and, finally that people of one race, sex, or other protected characteristic cannot or should not try to treat others equally and/or without regard to their protected characteristics.
- o The law does not prevent K-12 classes from discussing, as part of a larger course of academic instruction, “the historical existence of ideas and subjects” described above. In other words, you can teach that racist and sexist ideas have and do exist and have been and are potent forces in U.S. history.
- o The law also expressly preserves “the academic freedom of faculty members . . . to conduct research, publish, lecture, or teach in the academic setting” for faculty of the University System of New Hampshire and the community college system of New Hampshire.



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- o The law also permits “racial, sexual, religious, or other workplace sensitivity training based on the inherent humanity and equality of all persons.”
- o The law allows any person, such as a parent or student, who feels that they have been aggrieved by a violation of the law to bring a lawsuit against the school or school district or to file a complaint with the NH Attorney General’s Office or Civil Rights or the NH Commission for Human Rights. If the complaint is resolved with a finding that an educator “discriminated against an individual or individual group” in violation of the statute, [FAQs §12](#), such discrimination is considered a violation of the [educator code of conduct](#), which means you could then be sanctioned by the State Board of Education.

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

- o Yes. The official guidance clarified that teachers may teach historical subjects, including “slavery, treatment of the Native

American population, Jim Crow laws, segregation, treatment of women, treatment of LGBTQ+ people, treatment of people with disabilities, treatment of people based on their religion, or the Civil Rights Movement” and discuss current events, including the Black Lives Matter movement. The guidance also noted that these lessons are acceptable, even if they make some students, faculty, or parents uncomfortable. As the guidance explains, “education related to racism, sexism, and other practices or beliefs that have harmed and continue to harm certain identified groups may make students, parents, faculty, or parents uncomfortable” and may “prompt students to reflect upon whether and how racism, sexism, or other practices have or have not affected” them. [FAQs § 5](#). Such lessons are permissible. However, educators should be cautious to design assessments and lessons that do not require students to adopt a particular opinion or point of view in order to complete them successfully. Rather, educators should take care to ask questions

that elicit objective responses and allow students to draw their own conclusions.

- o New Hampshire’s social studies curriculum framework, which remains in place and is linked [here](#), also includes concepts and themes on racism, Jim Crow, specific historical events, and the contributions by different ethnic and religious groups to New Hampshire’s history and culture.
- o As always, you should never teach that any sex or race is inherently superior or inferior. The new state law prohibits such instruction, as do many other state and federal laws as well.

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

- o As an educator you know how to handle difficult questions in professional and age-appropriate ways: nothing in these laws should constrain your ability to answer tough questions and encourage critical thinking among your students, even if those questions



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arise organically. Be conscious not to require a student to adopt a particular point of view in the conversation, but rather provide them with the necessary context and information to come to their own conclusions. Choose illustrative examples wisely and take care not to alienate students by assigning beliefs or motivations to their questions or actions.

- o If you are planning discussions about current events that raise racial issues, be sure your curriculum is age-appropriate and squarely in line with state standards and past practices. You may want to notify or get approval from your administration as well if a particular instructional approach is likely to generate controversy in your classroom or the community. Your principal should assist you with understanding the parameters of this law as it relates to executing your job duties.
- o You do not, however, need to avoid discussions or readings that may be deeply provocative and upsetting. Confronting the horrors of slavery and the continuing legacy of racism in our

country is upsetting, but the new laws do not ban all emotional discussions. As always, use age-appropriate language and be sensitive to the fact that while necessary to discuss, these topics can elicit emotional and confused responses from students. Check in with them to make sure they understand correctly what you are trying to get across.

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

- o Nothing in the new law erases your school district's federal and state law obligations to enforce anti-bullying and nondiscrimination policies and laws in schools. Your school district likely has a policy in place to address such incidents. Provided you are responding in a way that is in line with that policy and that is age-appropriate, your conduct should be protected.

## **How can I continue to foster an inclusive environment at my school? / Can I display BLM flags, etc. in my classroom?**

- o We know that inclusive curriculum and pedagogical approaches

work. They engage students and improve student retention and achievement. Talk to your principal about the importance of making sure that all students feel seen and supported in your school and classroom and ways that the school can make sure this happens. If you plan on posting a symbol of inclusion such as a BLM or a DREAMers poster, and have not seen others posting similar items in their classroom, make sure to tell your principal in advance so that you can address any concerns they may have up front. If your principal or another school administrator prohibits you from posting such inclusive posters, consult your union representative about how best to proceed.

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

- o Students or parents who believe you've violated the law can complain to the New Hampshire Commission for Human Rights or the New Hampshire Office of Attorney General. As noted above, they may also bring a law-



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suit against the school or school district. If, after this initial complaint is addressed, you are found to have violated the statute, you may be disciplined by the State Board of Education, which could include losing your education credentials. NEA-NH can only provide representation in DOE license proceedings to union members.

- o If your school district indicates it is taking action against you for an alleged violation of the law, and you are represented by a union, contact your union for assistance. You can find your local union's contact information on the NEA-NH site [here](#) or the NEA-AFT site [here](#).
- o Your union representative can assist you in determining what rights you have under any collective bargaining agreement with your school district and also under New Hampshire law. School districts can't choose not

to renew your contract for an unlawful reason, such as your race or sex, or as punishment because you properly exercised your free speech rights outside of school (as described below).

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

- o Always remember that you have the greatest protection when you are speaking up off work time, in your personal capacity, and to your community or the general public – for example, by speaking at a school board meeting, attending a rally, writing a letter to the editor, or posting on Facebook or other social media.

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

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

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

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

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



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