

KNOW YOUR RIGHTS

TENNESSEE



#TEACHTRUTH

Table of Contents

[What is this new law and what does it do?](#) **4**

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

[What if my students ask about current events that raise issues of structural or systemic racism?](#) **6**

[What if there is a racial incident, or an incident motivated by racism on campus?](#) **6**

[How can I continue to foster an inclusive environment at my college or university?
/ Can I display a Black Lives Matter flag, etc. in my classroom, lecture hall or office?](#) **7**

[How can I support my students / oppose this law outside of my college or university?](#) **7**

[How can I get more involved in opposing these laws?](#) **7**

[Where can I go for more information on this issue?](#) **7**



Know Your Rights



WHAT EDUCATORS SHOULD KNOW ABOUT TENNESSEE'S "DIVISIVE CONCEPTS" LAW

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 in public schools that celebrate our country's greatest triumphs and examine our darkest moments, attempting to restrict students' freedom to learn from the past and make a better future. These legislators are working hard to censor classroom discussions on topics like race, racism, sex, sexism or inequity.

Despite the rhetoric around them, these proposed or enacted laws do not prohibit teaching the full sweep of U.S. history, including teaching about nearly 250 years of chattel 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 most of these laws and policies undermine efforts to ensure that all students, including historically marginalized students, feel seen in the classroom and benefit from culturally responsive and racially inclusive curricula and pedagogical tools that teach the truth about our country and prepare students to meet the demands of a changing and increasingly globalized world.

In Tennessee, lawmakers' efforts have resulted in a new "divisive concepts" law, Public Chapter 818, which amends the state's Postsecondary and Higher Education Code. This new law does not concern K-12 schools in any way. Nor should it impede teaching truth in public institutions of higher education, as it only targets "divisive concepts" and also explicitly protects freedom of speech and academic freedom.

If you or a colleague feel your ability to teach the truth is stifled by how your college or university is interpreting or enforcing the new Tennessee law, you can take action. Remember that you are most protected when you speak out outside of work, at a Board of Trustees or Regents meeting, in your church or other local community group. If you are represented by the [Tennessee Education Association](#), reach out to your local representative for assistance. You can also find additional help at the resources linked below.

The following answers some FAQs about the new law.

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**

Q&A

What is this new law and what does it do?

- o Public Chapter 818 became effective on April 8, 2022.
- o The new law adds new sections to Tennessee's Postsecondary and Higher Education Code. The full text can be found [here](#).
- o The law defines a "divisive concept" as a concept that:
 - One race or sex is inherently superior or inferior to another race or sex;
 - An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously;
 - An individual should be discriminated against or receive adverse treatment because of the individual's race or sex;
 - An individual's moral character is inherently determined by the individual's race or sex;
- An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- An individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;
- A meritocracy is inherently racist or sexist, or designed by a particular race or sex to oppress another race or sex;
- This state or the United States is fundamentally or irredeemably racist or sexist;
- Promotes or advocates the violent overthrow of the United States government;
- Promotes division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;
- Ascribes character traits, values, moral or ethical codes, privileges, or beliefs to a race or sex, or to an individual because of the individual's race or sex;
- The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;
- All Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including, life, liberty, and the pursuit of happiness;
- Governments should deny to any person within the government's jurisdiction the equal protection of the law;
- Includes race or sex stereotyping; or
- Includes race or sex scapegoating.
- o The law defines "race or sex scapegoating" as:
 - Assigning fault, blame, or bias to a race or sex, or to members of a race or sex, because of their race or sex; and



Know Your Rights

- Includes any claim that, consciously or subconsciously, and by virtue of a person's race or sex, members of a race are inherently racist or inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.
- o The law defines "race or sex stereotyping" as:
 - 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.
- o The law prohibits public institutions of higher education from:
 - Penalizing, discriminating against, or treating a student or employee adversely due to the student's or employee's refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to one or more divisive concepts
 - Requiring a student or employee to endorse a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation;
- Asking the ideological or political viewpoint of a student, job applicant, job candidate, or candidate for promotion or tenure.
- Under the law, any individual can pursue equitable or legal remedies in court for violation of these specific prohibitions.
- o The law also bans public institutions of higher education from:
 - Conducting any mandatory trainings, seminars, workshops, or orientations of students or employees that include one or more divisive concepts;
 - Using training, seminar, workshop, or orientation materials that include one or more divisive concepts; and
 - Using state-appropriated funds to incentivize (beyond payment of regular salary or other regular compensation) a faculty member to incorporate one or more divisive concepts into academic curricula.
- o Under the law, public institutions of higher education must require diversity-focused employees to "strengthen and increase intellectual diversity among the students and faculty of the institution."
- o The law also requires public institutions of higher education to:
 - Conduct a biennial survey of the institution's students and employees to assess:
 - the campus climate with regard to diversity of thought;
 - students' and employees' comfort level in speaking freely on campus, regardless of political affiliation or ideology; and then
 - Publish the results of the survey on the institution's website.
 - Curiously, this provision seems to require colleges and universities to survey students' and employees' political views, and make those survey responses publicly available.
- o The law does not prohibit public institutions of higher education from promoting diversity, equity, and inclusion or providing training on non-discrimination laws or discussing "divisive concepts," so long as employees do not endorse or advocate for such concepts.
- o The law does not restrict what is taught or how it is taught at most colleges and universities, as the



Know Your Rights

law specifically protects the First Amendment rights of students and employees, and the “academic freedom of faculty.”

- o Despite the narrow reach of its plain language, this law could still chill the free exchange of ideas in higher education.
- o The law attempts to invalidate ideas and censor educators by vaguely forbidding certain ideas from higher education spaces.
- o The law’s vague language opens the doors for a wide range of interpretations that could be used to chill free speech and academic freedom, by discouraging open and honest discussions about our country’s history in classrooms and other academic spaces.

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

- o Yes! Unless the Tennessee Board of Regents or other governing body takes action, this law changes nothing about the content or teaching of any course of study at public institutions of higher education.

- o Under the law, colleges and universities are not restricted in the courses they are allowed to offer or the content of such courses, but professors, faculty, and other instructors cannot require students to “endorse” a specific ideology or political viewpoint, or punish students who refuse to embrace “divisive concepts.”

- o **Nothing in this law concerns K-12 teaching or curricula.** The new law does not alter Tennessee’s [Social Studies Standards](#) for grades K-12, which require educators to teach students about U.S. and world history, African American history, U.S. government and civics, geography, economics, and contemporary issues, based on the students’ grade level. K-12 classroom lessons that are aligned with Tennessee’s [Social Studies Standards](#) remain appropriate.

- o As always, you should never teach that any race or sex is inherently superior or inferior to another race or sex, or that individuals should be treated badly on the basis of their race or sex.

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

- o As an educator, you know how to handle challenging questions in professional and age-appropriate ways.
- o As noted above, this law has no effect on course content or teaching on most Tennessee campuses. Professors, faculty, and other instructors may discuss current events or controversial topics, including race, racism, and structural and systemic discrimination, as long as students are not compelled to endorse a specific ideology or political viewpoint, or punished for refusing to embrace “divisive concepts.”

What if there is a racial incident, or an incident motivated by racism on campus?

- o The new law does not relieve public institutions of higher education of their obligations under federal and state law to enforce nondiscrimination policies.
- o Many colleges and universities also have anti-bias, anti-bullying and anti-harassment policies.



Know Your Rights

Current policies can typically be obtained from the campus police department, student life dean, college/university president, or board of trustees. Provided you are responding to the incident in a way that is in line with those policies, your conduct should be protected.

How can I continue to foster an inclusive environment at my college or university? / Can I display a Black Lives Matter flag, etc. in my classroom, lecture hall or office?

- o We know that culturally responsive and racially inclusive curricula and pedagogical approaches work, including at the higher education level. They engage students and improve student retention and achievement. Talk to your chairperson, department head, or dean about the importance of making sure all students feel seen and supported in your course and at the college or university, and the ways your institution can make sure this happens.
- o As noted above, this law specifically protects the First Amendment rights of students and employ-

ees, and the academic freedom of faculty. However, you may consider talking with your chairperson, department head, or dean before posting a symbol of inclusion, such as a Black Lives Matter, LGBTQIA+ Pride, or DREAMers flag or poster. If your chairperson, department head, or dean bars you from posting such inclusive signage, consult your professional association representative about how best to proceed.

How can I support my students / oppose this law outside of my college or university?

- o Always remember that you have the greatest protection when you speak up during non-work time and outside of the classroom or lecture hall – for example, by speaking at a Board of Trustees or Regents meeting, church, or other local community group meeting, attending a rally, writing a letter to the editor, or posting on Facebook or other social media.
- o You can join your students at these off campus events, but you should not use your authority as their professor, faculty, or instructor to urge students to participate.

How can I get more involved in opposing these laws?

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

Where can I go for more information on this issue?

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



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