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The Next Frontiers in the Battle Over CRT and DEI

Jon Edelman

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Defenders of anti-racism in higher education have had a hellacious year. Between 2022 and 2023, government entities introduced 57 measures to restrict the teaching of critical race theory in colleges and universities. Forty bills were brought up to limit diversity, equity, and inclusion initiatives. And the U.S. Supreme Court gutted the use of affirmative action in college admissions.

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The summer, with its break for both schools and many state legislatures, has given advocates a much-needed respite. But experts warn that conservative attacks on higher education aren't going away any time soon. They may be getting worse.

Taifha Alexander

Taifha Alexander is director of the CRT Forward Project at the University of California, Los Angeles School of Law, which tracks efforts to restrict information about race and systemic racism. Alexander says there have been more anti-CRT efforts in 2023 than by this point last year. If the trend holds, anti-CRT measures will increase 14% this year, up from 2021 and 2022. She says she sees the nature of the bills changing.

"The anti-CRT measures that are being introduced are becoming more extreme and more mean," says Alexander.

Early attacks on CRT were broad, banning the teaching of "divisive concepts," such as that members of one race are automatically morally superior to those of another, or that a person must feel guilty because of the past actions of people of his or her race — a caricature of CRT, which teaches that racism can be embedded in facially race-neutral legal structures.

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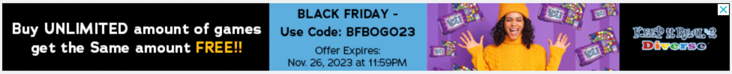

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Newer efforts are much more specific. Alexander points to recently released standards for social studies curricula in Florida that were mandated as part of the Stop WOKE Act signed by Republican Gov. Ron DeSantis. The standards require history instructors to teach that enslaved people benefited from their condition because they learned valuable skills and that Black people also committed violence during race massacres.

"We've seen subject-matter revisionist history that's untruthful," says Alexander. "We're going to have a generation of students who have gaps in their understanding of racial experiences and will have more difficulty address[ing] the most pressing racial and social justice issues of our time."

Spreading misinformation

The specter of the 2024 presidential election and the accompanying Republican primary contest will add fuel to the fire, according to Dr. Shaun Harper, founder and executive director of the Race and Equity Center at the University of Southern California (USC) and creator of the National DEI Defense Fund.

"It's in the best political interests of the Republican candidates to continue to spread misinformation and disinformation and therefore convince voters that they are going to be the person to end so-called woke-ism," says Harper. "It will have a spillover [effect] into local legislative activity, school boards, college campuses, state governments, and so on."

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Harper and Alexander agree that Florida is likely to continue to be a hotspot for anti-CRT and anti-DEI activity, since DeSantis has made it such a part of his brand. Dr. Jeremy C. Young, a program director at PEN America, the free expression nonprofit organization, thinks that even states that are less stereotypically conservative could become battlegrounds.

Last year, the Ohio state legislature proposed Senate Bill 83 that would have banned DEI training for staff and students, eliminated diversity statements in hiring and promotion, and disciplined professors who violated "intellectual diversity rights." The measure nearly passed; it was added to the state budget but was eventually stripped out. Young believes that it could be resurrected.

"The [state] senate is talking about reintroducing it in the fall," he says. "For a bill that extreme to be that close to passing, particularly in a state that doesn't have a showboating governor running for president and that doesn't have a reputation for being the place that woke goes to die, it really indicates that this is a national phenomenon."

In the coming year, Harper expects to see plenty of bills that copy the attacks on CRT and DEI that have been successful so far.

"Texas and Florida have now given states a replicable playbook," he says. "I think that more red states will copy and paste."

But Alexander and Young say they think that the attacks will continue to morph. Following the Supreme Court's undermining of race-conscious admissions, Alexander expects efforts to squelch programs that factor race into hiring or the awarding of scholarships. Although the Biden administration's guidance on the ruling emphasized that it only applied to admissions, Missouri's attorney general ordered state schools to drop minority scholarships, and the University of Missouri complied. The president of the University of Kentucky indicated that he believes such awards are now verboten, and Western Illinois University took back scholarships from students of color who had been promised them, before reversing its decision.

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Young foresees a strategic shift toward attacks on gender studies. In August, the New College of Florida, which over the past year has been taken over by supporters of DeSantis, announced that it was moving to dismantle its gender studies program.

"There's some evidence in the K-12 space that anti-trans attacks are more popular than race-based attacks," says Young. "We're hearing the specious argument that gender studies is a replacement for women's studies because of trans people taking over academia. That's not true, and it's pretty ridiculous, but that's the way they're trying to frame it. I expect that we'll see attempts to ban gender studies through legislation using the same tools they've used to restrict DEI, defunding departments or banning the university from accepting outside funds, effectively killing the program."

Broadening attacks

Young expects the attacks to move up a level — to the accreditors that certify that colleges and universities are offering quality programs. Accreditors have added DEI requirements in recent years, and they typically require that governing boards be free from undue political interference. According to Young, concerns about schools losing accreditation have led to the softening of several anti-DEI bills. In North Dakota, House Bill 1446, which would have allowed college presidents to dismiss tenured faculty, was defeated in part because of these fears.

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This June, the conservative Heritage Foundation issued a report arguing that Congress should "dismantle the higher education accreditation cartel." That same month, Christopher Rufo, the Manhattan Institute senior fellow and New College trustee who has been on the vanguard of the so-called anti-woke movement, tweeted that states need to pass legislation reforming accreditation.

Young says the consequences could be far-reaching.

"If the federal government disagrees with what a state does, there are potential risks to federal financial aid, which would be catastrophic for state higher education systems," he says. "The other threat is just that if you decouple accreditation from some kind of enforcement mechanism, you eliminate the distinction between a reputable university and a diploma mill."

Experts agree that higher education is playing catch-up in its response to the attacks.

“The anti-CRT disinformation campaign architects had a head start,” Alexander says. “[Initially,] there was this universal scoff among folks who are committed to racial and social justice. People didn’t think that this was going to go anywhere.”

Alexander, Harper, and Young all say they think higher ed needs a unified, coalition-based campaign to repel the attacks. There was less certainty about who should organize that coalition, however.

“That’s the million-dollar question,” says Alexander.

Fighting back

Still, efforts are underway to fight back. The CRT Forward Center is creating model measures and advisory letters that can be used by legislatures, school boards, federal agencies, and parents to better understand what CRT is and why it should be embraced. The National DEI Defense Fund is raising money to support DEI programs that have been hurt by politicized budget cuts, to provide legal support to teachers who are fired for teaching the reality of America’s racial history, and to offer free professional development to educators in areas that have prohibited spending on DEI workshops. And in September, USC will announce the National DEI Defense Commission, a group of 20 educational leaders who will create evidence-based toolkits that supporters of CRT and DEI can use to rebut the pervasive disinformation about them.

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Although higher ed’s opposition is growing more organized, there is little evidence that the anti-CRT and DEI fever is going to break anytime soon.

“History tells us that this kind of moral panic does die away eventually,” says Young. “But it’s going to take some evidence that this is not driving voters to the polls, that it’s not winning over swing voters. There would have to be some kind of political consequences for it.”

Alexander says she thinks that breaking the anti-CRT and DEI momentum would take a return to the intensity and focus of the summer of 2020, when, galvanized by the murder of George Floyd by a Minnesota police officer, parts of the nation attempted to reckon with its racial history. That reckoning spawned the backlash that she now tracks. She says she doesn’t think the attacks are going to end any time soon.

“It’s just going to evolve,” says Alexander. “And the response needs to be ready before that evolution takes place.”

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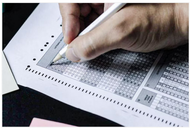

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