

INTERIM JOINT COMMITTEE ON EDUCATION

Minutes of the 2nd Meeting of the 2021 Interim

July 6, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Education was held on Tuesday, July 6, 2021, at 11:00 a.m., in Room 149 of the Capitol Annex. Representative Regina Huff, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Max Wise, Co-Chair; Representative Regina Huff, Co-Chair; Senators Danny Carroll, David P. Givens, Denise Harper Angel, Jimmy Higdon, Alice Forgy Kerr, Stephen Meredith, Gerald A. Neal, Adrienne Southworth, Reginald Thomas, Stephen West, and Mike Wilson; Representatives Shane Baker, Kim Banta, Tina Bojanowski, Jennifer Decker, Jeffery Donohue, Myron Dossett, Scott Lewis, C. Ed Massey, Bobby McCool, Charles Miller, Melinda Gibbons Prunty, Felicia Rabourn, Steve Riley, Attica Scott, Killian Timoney, James Tipton, Russell Webber, Richard White, and Lisa Willner.

Guests: Representative Matt Lockett, District 39; Dr. Jason Glass, Commissioner of Education, Kentucky Department of Education; Dr. Marty Pollio, Superintendent, Jefferson County Public Schools; Kelland Garland, Principal, Hebron Middle School, Bullitt County, Kentucky Association of School Councils; Delvin Azofeifa, school teacher; Jack Brewer, Chairman, Center for Opportunity Now, America First Policy Institute; and James Sherk, Director, Center for American Freedom, America First Policy Institute.

LRC Staff: Jo Carole Ellis, Joshua Collins, and Maurya Allen.

Chair Huff and Representative Bojanowski welcomed special guests including educators from Jefferson County Public Schools (JCPS) and Dawne Perkins.

Approval of Minutes

Representative Riley made a motion, seconded by Senator Wilson, to approve the minutes of the June 1, 2021, meeting. The motion passed by voice vote.

Perspectives on Critical Race Theory

Dr. Jason Glass, Commissioner, Kentucky Department of Education (KDE), began his remarks on critical race theory (CRT) by stating that he is not an expert on CRT or a legal authority. His presentation would be more of a brief overview of the subject and its

use in K-12 education, a discussion of racial equity in schools, and a look at the prefiled legislation seeking to prohibit instruction of CRT in both K-12 and postsecondary education.

Dr. Glass said critical race theory is a decades old legal and academic theory which seeks to explain why racism continues to exist. The theory provides a framework for the study of potential causes and effects for and of racism in society and how they might be mitigated. It is typically a graduate level academic concept taught in law school. Discussion of some topics related to CRT might appear in high school elective courses considering historical, political, and sociological aspects of racism, but it would not be developmentally appropriate in elementary or middle school classrooms. In Kentucky, curricular decisions are left to the local site-based decision making committees, according to statute. At this time, KDE is not aware of any schools or teachers specifically teaching CRT in Kentucky's public schools. It also does not appear in any of the state academic standards.

In regards to KDE's efforts toward improving equity, especially racial equity in schools, Dr. Glass clarified that these two subjects, equity and CRT, were not the same thing. Equity in education is fundamentally an effort to ensure that all students have what they need to be successful and meet their full potential as citizens and human beings. Examples of equity in school are provisions for special needs students to access the curriculum and the provision of free and reduced price meals for hungry students. KDE provides a toolkit to schools which includes an equity dashboard to analyze differences in outcomes for different demographics and an equity playbook with five strategies schools can adopt to improve equity. Those strategies include high-quality instruction and quality teachers for all students and equitable allocation of resources. As part of a larger effort to increase equity in public schools, KDE has actively worked to increase the number of teachers of color that are trained and certified in the state through the "Go Teach KY" program.

Dr. Glass said the prefiled bills prohibiting CRT instruction are essentially educator gag and student censorship bills that seek to define what can and cannot be taught or discussed either formally or informally in Kentucky schools on a number of concepts related to race and other controversial topics. Notably, these censorship bills circumvent the decisions of school based councils and replace local decision making with a mandate from the state legislature. Additionally, the mechanism included in the bills for prohibiting a topic is not based on fact but on feelings. If a student experiences discomfort, guilt, anguish, or other psychological distress on account of race, sex, or religion, the material is to be prohibited. This is a standard that is likely impossible to enforce and may create constitutional challenges the state will have to defend. Freedom of speech is protected by the constitution, regardless of what feelings of discomfort it produces for the listener, and it will be difficult for meaningful discussion of history if all concepts have to be vetted for uncomfortable feeling in an individual or group. Additionally, as Bill Request 69 extends this prohibition to postsecondary institutions, it may jeopardize the accreditation of

Kentucky's public postsecondary institutions. Law students and other graduate students in fields such as sociology and social work would be unprepared when they encounter elements of CRT in their professional careers.

In conclusion, as is the case with many censored and banned topics, these ideas are already circulating on the internet and students will seek them out. As an alternative path forward to address the apparent urgency to take action on this issue, Dr. Glass recommended encouraging schools to set curriculum that fosters student dialogue and the critique of concepts such as CRT and opposing theories. Mandating an informed free-market of ideas would ensure the conversations are balanced and allows local decision making to continue to reflect Kentucky values.

In response to questions from Chair Huff, Dr. Glass said he was unfamiliar with any grant proposals tied to teaching of CRT. KDE would not be interested in grants which dictate curriculum, as that is not the purview of KDE, but they would accept grant funding toward furthering equity in schools as discussed earlier.

Responding to questions from Representative Tipton, Dr. Glass reiterated that KDE sets state academic standards through a process laid out in statute, but local schools decide curriculum. School based councils, consisting of parents and teachers in the schools, make those decisions at regular meetings which are open to the public. Notes and minutes are kept and can be accessed by anyone who wants to ask for them at their schools.

Responding to questions from Representative Rabourn regarding Jefferson County Public Schools (JCPS) removing CRT and diversity equity from their guidance, Dr. Glass said he would defer to Dr. Pollio, superintendent of JCPS, who would be speaking later about the specifics of that school system. He reiterated that he was not aware of CRT being taught in any Kentucky schools, but there are significant efforts being taken to ensure diversity equity and inclusion as it is distinctly different. Regarding questions about alternative viewpoints to CRT, Dr. Glass said there are a number of expert criticisms of the theory available. Inclusion of critiques of the theory with the teaching of the theory itself would create the free market of ideas which allows students a fuller perspective and teaches them to synthesize their own interpretations of history and society.

In response to questions from Representative Decker, Dr. Glass explained equity operates in education as different supports for students with different abilities such as providing free and reduced meals to hungry students and different ways for English-language learners to access the curriculum. All students are given what they need to succeed. Equity is a tool to use on the way to reaching the ideal of equality. Regarding claims of CRT being taught in Kentucky schools and being used to make white kindergarteners identify as oppressors, Dr. Glass said those claims should absolutely be investigated and there is an opportunity for parents to file such a claim at a federal level if they feel their student has been mistreated on the basis of race.

Representative Timoney thanked the commissioner for his comments separating out equity and equality. He compared equality to everyone entering a hospital emergency room receiving a bandage, whether they had a bleeding wound or had suffered a heart attack. Equity is assessing what each patient needs and providing it. This structure works in many areas of our lives from policing to funding to education.

The discussion continued with a presentation from Dr. Marty Pollio, Superintendent, JCPS. Dr. Pollio stated he is not an expert on CRT and encouraged the committee to seek out those experts and more diversity for future discussions of this topic. One of the unfortunate side effects of recent focus on CRT has been the growth of its scope to include all topics associated with race, including racial equity and even sometimes trauma-informed care. Separating out CRT from racial equity is critical, and improving racial equity in JCPS is a real focus of the district at this time. Eliminating the achievement gap has been central to education in the United States for decades, and unfortunately there has been little movement forward. Achievement gaps exist between students of different learning abilities, socioeconomic statuses, and races. These gaps are further compounded if a student is a member of more than one low-performing demographic.

Last September, Dr. Pollio said he testified that there will not be a single program or a single initiative that will close achievement gaps. It will take a comprehensive approach to everything schools do to ensure that black and white students receive the same opportunities. This comprehensive look at JCPS has encompassed hiring practices, facilities, access to magnet programs, access to gifted and talented programs, student supports, and an inclusive curriculum. In research, student sense of belonging has been demonstrated to be a key to student success. Students seeing themselves in the curriculum is a part of that sense of belonging. During the September meeting, Dr. Pollio also outlined the JCPS racial equity policy and plan. Inclusive curriculum was part of that plan, as was the need for more educators of color in a district with nearly 60 percent students of color and only 25 percent educators of color. There has been great success in the JCPS initiative to recruit more teachers of color with a record number of teachers of color employed in the district. Additionally, the first class of the Louisville teacher residency program, designed in partnership with the University of Louisville to provide a different path toward teacher certification, just graduated with 23 of the 30 graduates being teachers of color. He used these as illustrations of the intentional work toward racial equity being done at JCPS, and reiterated how problematic it was to subsume this work under the umbrella of CRT.

The focus in JCPS is on student achievement and improving the outcomes for all students. This does not mean to lift up one group by putting down another, but providing the appropriate support for each individual student. Dr. Pollio said he is very proud of the positive trends in hiring and in student engagement that have come from their focused effort on racial equity, even though there is still a long way to go. Since 2018, the district has increased the number of students of color identified as gifted and talented by over 1,600

students. Additionally, the overall number of students identified as gifted and talented has risen, so the intentional focus on equity for black students did not decrease the opportunities for white students. There has also been a significant increase in students of color enrolling in dual-credit courses and those receiving college credit for dual-credit courses has nearly doubled. These efforts can reduce the achievement gap as well as improve the career opportunities for students of color. Facilities improvements are also at the forefront of the equity plan, with construction of a new school building beginning soon to serve west Louisville.

Dr. Pollio closed his portion of the discussion by stating that adopting an inclusive curriculum is only one aspect of a broader equity plan that seeks to improve student belonging and close the achievement gaps. He wants to give students every opportunity to change the trajectory of their lives. Significant progress is being made at JCPS and this progress must be accelerated for those that are the furthest behind.

Responding to questions from Chair Huff, Dr. Pollio said the reference to CRT for the “Developing Black Historical Consciousness” elective was part of a general guidance document the district provided to schools as an option to adopt and modify as they felt necessary. Some students are motivated and inspired to take this optional course, and it is not appropriate for or mandated to all students. The course was designed to allow students to take an in-depth look at racial inequities in the United States. Because the district did not want to take focus away from the racial equity initiative and because CRT has become a hot-button issue, the decision was made to remove it from the curriculum guidance document. If an individual school SBDM chooses to include it, it is questionable whether the JCPS school board has the authority to forbid them from doing so.

Responding to questions from Representative Rabourn, Dr. Pollio said the racial equity policy was adopted by the Board and included developing an inclusive curriculum that reflected the fact that nearly 60 percent of the student population identify as students of color. Some high schools offered a black history course, but others did not. In order to encourage uniformity of content for the course, and encourage equitable access to the course across all the high schools, the Board developed the “Developing Black Historical Consciousness” course with an emphasis on black history in the United States. Unfortunately, all across the United States, social studies curriculum has not been inclusive of the black historical events that have shaped our society. Any student is welcome to take the course, and students of many ethnic backgrounds do choose to take it.

In response to a question from Senator Higdon, Dr. Pollio answered that the model of allowing site-based, local control of curriculum appears to be unique to Kentucky, but that he can only speak to that from anecdotal discussions with superintendents in other states. Representatives from KDE would be better able to speak to national trends in how curriculum decisions are made.

Responding to a question from Representative Decker, Dr. Pollio clarified that discussions of racial equity and discussion of CRT are two different things. The focus on JCPS is on closing achievement gaps for students and providing equitable supports for those that are furthest behind, which right now are students of color. JCPS is working toward that by adopting inclusive curriculum, which includes more black history in social studies; ensuring equity in terms of identification of gifted and talented students using methods other than tests; and taking a racial equity focused look at all areas of education as necessary.

Responding to a question from Senator Meredith, Dr. Pollio said before any interpretation of history can occur in the classroom, all the stories must be told. Let the students have an inquiry based pedagogy where they are able to make the determinations for themselves. He strongly supported the recommendation made earlier by Commissioner Glass to include critiques of CRT in any class that incorporates the theory.

Mr. Kelland Garland, Principal, Hebron Middle School, Bullitt County Schools, represented the Kentucky Association of School Councils discussing how curriculum is developed. Once curriculum is set by a school council, it is the principal at a school who ensures the policy is implemented. The framework of all school curriculum in the state is the Kentucky academic standards. Regarding transparency, academic standards can be found on the KDE website as well as the essential questions that are used by teachers and parents in school council meetings to develop learning targets. These give teachers daily tasks regarding what students should learn every day. It is a lengthy process to develop and set standards, so they will not change very frequently. Local school boards are responsible for setting how the standards are assessed throughout the school year, and principals report progress toward mastery to the local school boards. He assured members that they would not see any mention of CRT in the Kentucky academic standards. Daily learning targets are written into student planners and parents can see what the daily class discussions will center around. All of this is to ensure students can answer the essential questions that will form the end of year assessments used to determine student mastery of the academic standards.

Any parent with concerns is welcome and encouraged to contact their child's principal to discuss the learning targets and curriculum implementation at their school. One question he gets frequently regarding the teaching of world history is why the school is trying to convert their children to Islam. They are simply exposed to the major world religions including Christianity, Buddhism, Islam, Hinduism, and Judaism. That is not to force the students to convert or make judgements about religions, it is simply to expand their world view as part of understanding world civilizations as laid out in the academic standards. The standards are broken down for teaching in the classroom, and in regards to social studies they always try to provide the facts so that students, especially those in middle and high school, can ask critical thinking questions.

2022 BR 69 – AN ACT relating to prohibited instruction and declaring an emergency.

Representative Matt Lockett, District 39, and Representative Jennifer Decker, District 58, were present to speak in favor of prefiled Bill Request 69 for the 2022 Regular Session. Also present were James Sherk, Director, Center for American Freedom, America First Policy Institute; Jack Brewer, Chair, Opportunity Now, America First Policy Institute; and Delvin Azofeifa, high school teacher, Fayette County Schools.

Representative Lockett said this was vital legislation to ban teaching and promotion of CRT in public K-12 and postsecondary education institutions. He said that CRT is rooted in Marxism and class conflict because Marx believed that industrialized societies had an imbalance of power between capitalists and workers. His solution was revolution, but all Marxist governments unravel. CRT is simply Marxism based on the color of one's skin. It divides the population into oppressed and oppressors. Representative Lockett said CRT teaches that the entire political and social system is based on race where white are oppressors and blacks are oppressed. Since prefiling the bill request, he has heard from many parents, teachers, and school board members in support of a ban on CRT in schools. He has not heard from anyone in support of teaching CRT.

Representative Lockett said CRT is being taught in Kentucky schools. He said it is a radical ideology used to foment revolution that maintains the United States is an irredeemably racist nation. Representative Lockett said the National Education Association recently voted to promote CRT and deemed it reasonable to teach in schools, but educator organizations at neither a national nor a state level should determine what is taught to our students. Only parents should be the ones making those decisions. He claimed the state cannot close achievement gaps by tearing one group down. He urged members to listen to parents, not teaching organizations or educational institutions, as to what should be taught. History should be taught in schools but not CRT because it teaches a different kind of racism.

Representative Decker said CRT holds that the only remedy to racist discrimination of the past is anti-racist discrimination in the present. It has been used for decades to indoctrinate students across the nation. The theory masquerades as a lens through which to view history, but it is not. It is subjective theory which promotes division and interracial hostility. She said while she has no knowledge of CRT being taught in her district, parents from across the state have informed her that it is being taught in their schools to children as young as kindergarten. Students are told they are either oppressed or oppressors and there is nothing they can do to change that. A review of official websites for the public colleges and universities also established that CRT is deeply embedded across their curriculums.

She said many Americans have been given the false notion that it is simply a full consideration of history including objective facts that have been avoided because they

cause discomfort. Four leading CRT writers dispel this notion by stating CRT embraces subjective perspectives and is a political ideology. Public schools should not teach something which is subjective or political. Representative Decker said this bill request aims to stop the teaching of subjective, divisive, and dangerous concepts. She claimed that CRT supporters immediately began insulting the sponsors and calling them racist, a term which is anathema to America and the opposite of foundational ideas she holds as sacred truths. She said the fear of being called racist serves to mute others with valid objections and will allow the dismantling of American society to be built back on subjective notions of equity.

Since beginning work decades ago, critical race theorists have advocated for the dismantling of America's legal, educational, cultural, religious, and economic systems which they claim are the products of white supremacy. To disguise this radical ideology, activists have promoted it as culturally responsive teaching and something that promotes equity in education. But, Representative Decker insisted, using these euphemistic phrases only allows them to inspire students to reject their national heritage and yearn for a socialist utopia. She pledged to continue to fight to protect Kentucky students from being taught their country is irredeemably racist and that race is the lens through which they should analyze their world.

Mr. Azofeifa also presented his perspective on CRT and the need to ban it in public schools. He said it is detrimental to focus on equity versus equality. The ideology perpetuated in CRT adjacent dogma, such as culturally responsive teaching, suggests that students of color should not be punished for misbehavior or disruptive behavior in classroom because of racism. He said this undermines classroom management. Equity allows a disruptive student to return to a classroom and continue to disrupt it for all the other students. He paraphrased author Douglas Murray in saying there are things we knew yesterday that today we pretend not to know. Only a small amount of history is captured and can be taught and digested by students. He believes that ideologues like to critique what is taught in social studies classes, specifically what is excluded, but there is a time limitation because classes are not taught thematically.

He suggests that teachers should teach that oppression can expand beyond blacks and whites, instead of just discussing the oppression of slaves before the American Civil War. He and other teachers, he has spoken with, teach subjects that are not mainstream, such as Native Americans owning slaves and later being side-by-side on the Trail of Tears. He incorporates black history throughout the year, not just in February, because they are American history. If a principal told him and his colleagues that they could not teach about the past injustices, he and the other social studies teacher would resign. He will not be a puppet of the state, regurgitating propaganda. In professional development training, he has been instructed to use evidence-based learning and he has an expectation of autonomy inside his classroom to design coursework. However, now dogma is replacing facts and reason in public schools. Almost 70 percent of students in the Commonwealth are not

proficient in science, but it would not make sense to bring in an expert on flat earth conspiracy theories to enhance student's scientific understanding.

He also said CRT and CRT adjacent dogma are not harmless. No other causal factors are allowed to be considered. There is no denying that racism has played a major role in the history of America, but objectively, 2021 is not even close to the level of racism experienced in 1921. Since teachers are trained to use evidence-based approaches, he asked where the evidence was to show anyone is made less racist from anti-racism training. Dogma does not stand up to reason and logic, and those that attack him will attack his personality and not the actual ideas because they cannot. The republic is founded on discussion, and CRT adjacent dogma makes assumptions leading to negative unintended consequences. Historically, great societies fail when they adopt dogma, such as when China failed when it adopted Confucianism dogma and when the Middle Eastern societies fell when it adopted Islamic dogma. CRT suggests elevating lived experience over objectivity but that kind of racial supremacy has no place in American society. And black supremacy does exist, but you might not learn it reading about white fragility. He closed by paraphrasing Dr. Martin Luther King, Jr., saying that an injustice somewhere is an injustice everywhere. CRT adjacent dogma is also anti-capitalist. Capitalism is about the free exchange of goods and ideas, where CRT adjacent dogma is about the power differences between groups. If Kentucky allows the teaching of CRT in schools, it will lead to students being segregated by race.

Mr. Brewer said his family is descended from slaves in Kentucky and he would present three facts about CRT. First, many schools are teaching CRT. Second, CRT is racist at its core. And third, it indoctrinates students. While CRT began as a critical academic theory in law schools, it has spread rapidly through education. Two of the pioneers of the theory have said CRT is livelier in education now than it is in law. The largest teachers association in the country recently announced that promoting CRT is a top priority. One in eight parents in America recently reported that their students were being taught CRT. In Illinois, a school stated it was committed to focusing on race as one of the first visible indicators of identity. They informed parents that children as young as five were already biased. A public charter school in Nevada requires students to label and identify their gender and racial identity and determine which parts of their identity have privilege or oppression attached to them. Teachers pressured students to accept the label of oppressor or receive a failing grade.

America has a long history of racism, however, there has been great progress since the civil rights movement. CRT teaches children to categorize themselves and identify as racists. America was founded on unalienable rights, an experiment which has been widely successful and has inspired generations to liberty. We must teach the next generation to love America and its founding ideals.

In response to a question from Representative Bojanowski, Mr. Azofeifa said schools are full of unintended consequences and disparities in school happen because there is an unending grievance industry in education. Disadvantaged schools get funding from programs that only serve disadvantaged schools, and if they improve the school, the funding disappears. This creates an incentive for the grievance organizations to keep making black people believe they are victims. He said he did not want to hear about victimhood and he does not care if a child has an encyclopedic knowledge of Africa because it would not prevent them from being shot on the streets. He demanded that if Representative Bojanowski had the answers she should tell him. He wonders every time one of his students is shot why he receives more LGBTQ and culturally responsive training instead of ways to teach kids not to commit crimes and keep them from indulging in a hedonistic culture where prison is cool. He further demanded what curriculum Representative Bojanowski had that could solve those problems. Representative Bojanowski responded that she had researched the school-to-prison pipeline and there are intentional approaches that teachers and parents can do to keep children from dying on the streets or ending up in prison, but it starts with taking a look at certain injustices that happen in the system and the disproportionate identification of children for criminal actions in school. Mr. Azofeifa shared an anecdote regarding students returning to the classroom after committing crimes and asked why one student's right to an education trumps others right to safety. Or why violent students should be allowed to continue to be in a school when they assault teachers. He said that was not because of disproportionality or racism, but because the students did not experience any real consequences for their bad behavior. He shamed the committee for apparently believing that black students do not receive discipline at home.

Responding to questions from Representative Willner, Representative Lockett said there will be many revisions to the bill as it moves through the process, including those that will bring clarity. The eight elements listed in the bill are easy to understand and are the tenants of CRT or any similar theory. It does not specifically say critical race theory intentionally to address schools that claim not to teach the theory, but indeed are teaching its concepts. He wanted to be clear that it is not the term they are trying to eliminate, but rather they are trying to prevent students from being taught that they are less than someone else because of their skin color.

Responding to questions from Senator Southworth, Mr. Azofeifa said CRT and adjacent dogma come into the classroom through professional development and creative freedom offered to teachers. He was part of a professional development training where the instructor accused the white staff of being inherently racist. It is important to allow students to have equal opportunity, but when schools try to enforce equality of outcome, that is contrary to the American ideals of capitalism and individualism. For the most vulnerable students, Mr. Azofeifa said he saw teachers who do not care but as long as the students get passing grades, no one cares. There is a systematic failure because people at the top are not

working with people on the bottom to find what students actually need. They instead are listening to what the politicians in Washington, D.C. believe Kentucky students need.

Senator Neal thanked the chair for allowing the conversation and the free exchange of ideas regarding CRT. This helps to better inform the members and is similar to how students can be prepared in the classroom through an educational process with trained professionals which is better than the internet, where students are already exposed to these ideas with no direction. Students need to be prepared for a world which is challenging and teachers should be trusted to guide students in that preparation. Responding to his questions regarding postsecondary accreditations, Representative Lockett said he was investigating that portion of the bill, and it is his understanding there are different procedures for postsecondary and K-12 education and what the state can mandate. At this time he could not say whether he would withdraw the bill if it jeopardized postsecondary accreditations.

Representative Rabourn thanked Representatives Lockett and Decker for bringing this bill request and said that she would work with them to make sure education remained free from political and social agendas.

Representative Donohue asked the panel to remain respectful and civil, as the presenters represent their districts like the members of the committee. He said the bill request as presented would jeopardize postsecondary accreditation because it unduly limits academic freedom and asked how the sponsor plans to remedy that. Representative Lockett answered he was still working on the bill and that is an issue they will address over time.

Responding to a question from Senator Harper Angel, Representative Lockett gave an example brought to him from Kentucky parents of first grade students who were being divided by skin color and told they were either oppressed or oppressors based on the color of their skin. They were told there was nothing they could do to change that about themselves. Also, he related the anecdote of a 15-year-old coming home and telling her parents that a teacher made her feel bad for being white. He proposed this bill to stop that sort of nonsense.

Chair Huff announced that the final presentation from Dr. Pollio regarding updates on JCPS would have to be tabled until a later meeting due to lack of time. The next regularly scheduled meeting of the committee will be Tuesday, August 3, 2021, at 11:00 a.m. The meeting adjourned at 1:32 p.m.