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# Incompatible with the Framework

## State Laws Targeting DEI, LGBTQIA2s+, and CRT

Librarians working in higher education in a growing number of states are currently confronted with the challenge of balancing legal compliance with the potential suppression of intellectual freedom and exclusion of marginalized groups. This is all due to the enactment or endorsement of laws, regulations, policies, and directives against Diversity, Equity, and Inclusion (DEI); critical race theory (CRT); lesbian, gay, bisexual, transgender, and/or gender expansive, queer and/or questioning, intersex, asexual, and two-spirit people’s (LGBTQIA2s+) rights. Some academic librarians and faculty have decried this legislation that contradicts academic freedom and allows the government to dictate higher education content despite legislators’ lack of expertise or understanding of DEI, CRT, and LGBTQIA2s+ topics.<sup>1</sup> While book censorship has received a great deal of attention,<sup>2</sup> there has been little discussion about curriculum censorship and its impact on the content and pedagogical approaches (e.g., critical pedagogy) used by academic librarians to teach information literacy.

Anti-DEI, anti-CRT, and anti-LGBTQIA2s+ legislation has created a campus climate of fear,<sup>3</sup> and there have been reports of the administration pulling back support for CRT, LGBTQIA2s+, and DEI on campus.<sup>4</sup> Academic librarians who reside in the states seeking to ban these topics may be experiencing feelings of precarity and lack of safety, particularly those who conduct research and teach concepts related to DEI, CRT, and LGBTQIA2s+. While most anti-DEI, anti-CRT, and anti-LGBTQIA2s+ legislation in different states related to curriculum in publicly funded higher education institutions are still being introduced or advancing, faculty and librarians have identified how language in these bills have been “unconstitutionally vague,”<sup>5</sup> giving room to the interpretation of what is considered a promotion or endorsement of a divisive subject.

In the context of the ACRL Framework for Information Literacy for Higher Education, if CRT concepts and language are prohibited in a college class on American history, for example, a librarian may not be able to fully engage with the frame Authority is Constructed and Contextual, where “experts view authority with an attitude of informed skepticism and an openness to new perspectives, additional voices, and changes in schools of thought.”<sup>6</sup> For some librarians, politics and the law may seem to have little impact on the way they teach the ACRL Framework. However, it is important to pay attention to both because we cannot gloss over the contradictions between the frames and legislation to avoid breaking the

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law. In this article, we discuss the issues between the Framework and anti-DEI, anti-CRT, and anti-LGBTQIA2s+ state legislation and how it impacts what and how we teach concepts from the Framework.

## **The Framework and Anti-DEI, Anti-CRT, and Anti-LGBTQIA2S+ State Legislation**

The ACRL Framework was developed to move away from the prescriptive ACRL standards and is intended to be adapted to teaching librarians' contexts (e.g., discipline, type of institution, etc.). The ACRL Framework presents "conceptual understandings that organize many other concepts and ideas about information, research, and scholarship into a coherent whole."<sup>7</sup> Though librarians can choose which frames and knowledge practices to teach, the Framework incorporates social justice–related concepts such as privilege and structures of oppression<sup>8</sup> as well as intellectual freedom. As the ALA "Education and Information Literacy: An Interpretation of the Library Bill of Rights" explains:

Intellectual freedom is the right of every individual to both seek and receive information from all points of view without restriction. Education and information literacy are fundamental to the mission of libraries of all types and form the foundation of intellectual freedom. Libraries provide access to information and ideas through their facilities, resources, and services. Libraries foster the ability to use those resources through educational programs and instruction.<sup>9</sup>

Thus, anti-DEI, anti-CRT, and anti-LGBTQIA2s+ legislation erodes intellectual freedom and counters the concepts that academic librarians teach in alignment with the Framework by restricting teaching content and pedagogical approaches.<sup>10</sup> Moreover, the legislation undermines librarians' expertise in the area of teaching and information literacy through curriculum censorship. The anti-DEI, anti-CRT, and anti-LGBTQIA2s+ legislation impedes this very principle of intellectual freedom and in turn, information literacy. Whether or not librarians choose to teach using DEI, CRT, and LGBTQIA2s+ topics, at the core of the issue is the violation of intellectual freedom of students and faculty and the violation of academic freedom of librarians that threatens core principles in academic librarianship.

## **The Impact of Anti-DEI, Anti-CRT, and Anti-LGBTQIA2s+ State Legislation on Teaching the Framework**

The ACLU's Mapping Attacks on LGBTQIA2s+ Rights<sup>11</sup> provides a listing of state legislation related to curriculum censorship, and UCLA's CRT Forward<sup>12</sup> identifies which states have put bills forward, approved, or overturned anti-DEI, anti-CRT and anti-LGBTQIA2s+ legislation related to teaching. The following discussion provides some examples of how this legislation impacts the teaching of the frames. The discussion will focus on legislation prohibiting the teaching of

- "divisive" concepts or exacerbation of divisions,
- "distorted" American history and events,
- gender and sexual identities, and
- the above topics in response to student inquiry.

Select frames will be used to illustrate how curriculum censorship counters the core meaning of a frame. Any bills referenced in the discussions were identified on the ACLU Tracker and CRT Forward sites in mid-February 2024, and the status of these bills may have changed at the time of publication.

## **“Divisive” Concepts or Exacerbation of Divisions**

A few bills that have been introduced or are advancing (e.g., ID HB377, SD HB1012) euphemistically use the term “divisive concepts” or topics that create “divisions” to reference CRT, LGBTQIA2s+ topics, and DEI topics. This may mean that discussion of race, sex, and other identities is prohibited, or that students are not required to and have a right to refuse instruction that may seem to introduce topics related to gender and sexual identities. This can be challenging for librarians who are demonstrating search activities or evaluating a variety of sources that involve readings on CRT, LGBTQIA2s+ communities, and/or DEI research. As a result, research on these topics would have to be excluded, and students might opt to disengage from these activities based on their interpretation of their state’s legislation.

The Searching as Strategic Exploration frame states that “searching for information . . . [requires] the evaluation of a range of information sources and the mental flexibility to pursue alternate avenues as new understanding develops.”<sup>13</sup> Therefore, librarians may need to introduce learners to the strategy of reading through different texts to develop their keyword strategy. Some results from searches may include “divisive concepts” as outlined in Arkansas’ SB627/Act 1100. The Act lists specific topic areas that are considered divisive concepts (e.g., meritocracy as racist and sexist, or race- and sex-based “scapegoating”) and stipulates that “a state entity shall not teach, instruct, or train any employee, contractor, staff member, or any individual or group, to adopt or believe any divisive concepts.”<sup>14</sup>

This can be a challenge for a librarian teaching a session for medical students on search strategies and using the topic of health care disparities, where research around inequity, access, and quality of culturally appropriate care experienced by Black and American Indian or Alaska Native people in North America may emerge in discussions. A librarian may hesitate to pull up the articles to further discuss the topic or avoid alternative keywords such as “racism” or “racial disparities.” The very act of demonstrating a search or evaluation of an article may be deemed as teaching, as the demonstration method is a pedagogical approach that focuses on developing learners’ procedural knowledge from “observation and imitation to autonomy and adaption of a technique.”<sup>15</sup>

## **“Distorted” American Events and History**

A few bills prohibit the teaching of “distorted” events or topics (see FL SB266, SC SB424),<sup>16</sup> implying that deviations from positive, majority-centered narratives are dangerous and inaccurate. Moreover, South Carolina’s SB424 states that

state-funded education entity, including its employees and volunteers, shall not conduct instruction that promotes or endorses narratives that with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality.<sup>17</sup>

By stating that enslavement and racism are merely “deviations, betrayals, or failures,” it excludes the extensive research on the problematic nature of colonialism and racial capitalism on the founding of the United States.<sup>18</sup> More concerningly, South Carolina’s SB424 implies that enslavement and racism are in the past and one-time events, diminishing the CRT research that has identified ongoing systemic racism in institutions such as the law and government.<sup>19</sup>

These bill sections negatively impact librarians’ ability to provide instruction according to the Information has Value frame by diminishing and excluding emerging criticisms and global voices across various fields. Interestingly, students that become experts in this frame “understand that value may be wielded by powerful interests in ways that marginalize certain voices.”<sup>20</sup> This can be difficult for those in Florida, where legislation stipulates that Western-centric researchers and departments receive more funding. HB999 in Florida includes sections that explicitly identify and reinforce Western-centric knowledge as the ideal by making it mandatory in general education core courses and the humanities. Florida’s HB999 states that

humanities courses must afford students the ability to think critically through the mastering of subjects concerned with human culture, especially literature, history, art, music, and philosophy, and must include selections from the Western Canon.

If Western-centric approaches are given more space and value, librarians may be asked to focus on demonstrating and discussing Western-centric research rather than presenting a spectrum of knowledge from different knowledge systems such as Indigenous and African knowledge systems. From a pedagogical perspective, teaching the frames using approaches such as culturally sustaining pedagogy—where practices include decentering whiteness and Western philosophy—could be discouraged by institutions seeking funds.<sup>21</sup>

## **Gender and Sexual Identities**

Other common sections in the bills include the prohibited teaching of identity politics or gender and sexual identities. For example, Oklahoma’s HB3135 stipulates that “a public school, charter school, technology center school, or institution of higher education shall not use public funds to promote, encourage, or provide instruction on topics related to sexual choice, sexual orientation, drag queens, or similar topics in public educational institutions.” This kind of legislation imposes constraints on diverse perspectives and research, which contrasts with the frame allowing librarians to incorporate examples of research that address LGBTQIA2s+ topics. This is particularly challenging when teaching the Authority is Constructed and Contextual frame, which asserts that “experts understand the need to determine the validity of the information created by different authorities and to acknowledge biases that privilege some sources of authority over others, especially in terms of others’ worldviews, gender, sexual orientation, and cultural orientations.”<sup>22</sup>

Legislation that prohibits gender and LGBTQIA2s+ topics limits the scope of what topics librarians can use for the classroom or what librarians can teach if students express an interest. For example, if librarians want to run an activity where students must draw connections and/or comparisons of popular media sources with scholarly sources, librarians may not be able to identify activity examples related to LGBTQIA2s+ rights, history, political movements, media and representation, art, and writers, to name a few. More concerningly, curriculum

ensorship on topics related to gender and LGBTQIA2s+ in information literacy instruction violates librarians' academic freedom related to teaching. The ACRL Statement on Academic Freedom states that "in accordance with our professional standards and stated commitments, [ACRL] opposes any actions that limit the free expression of ideas of librarians and faculty on campus, in the classroom, in writing, and in the public sphere, especially in the context of higher education and its traditional support for academic freedom."<sup>23</sup> Legislation that prohibits teaching specific topics infringes on the academic freedom of students, faculty, and librarians alike.<sup>24</sup>

## **They Say, I Say Nothing**

Another common section in the anti-DEI, anti-LGBTQIA2s+, and anti-CRT laws is how an instructor may respond to student questions. For example, North Dakota's SB2247 states that "this chapter may not be interpreted to prohibit an individual who provides training from responding to a question regarding a divisive concept so long as the response does not endorse or advocate a divisive concept."<sup>25</sup> Although student inquiry is allowed, SB2247 complicates teaching because the librarian may be perceived as supporting a "divisive concept" if they further the conversation or give space for discussion on such a concept.

The Research as Inquiry frame states, "The spectrum of inquiry ranges from asking simple questions that depend upon basic recapitulation of knowledge to increasingly sophisticated abilities to refine research questions, use more advanced research methods, and explore more diverse disciplinary perspectives."<sup>26</sup> While students are allowed to ask questions and librarians can respond, librarians must be careful when state legislation uses the words "endorsing and advocating." This gives room for interpretation. For example, a librarian could be accused of endorsing and advocating for a divisive concept if they lead a discussion among students and give space to students who share their insights on a research topic through a critical race feminist lens. This could lead to avoidance of such topics, and, in turn, it discourages student curiosity and diminishes the voice of students that have knowledge or interest in CRT and queer studies–related methodology. From a pedagogical perspective, limiting discussions and ideas may create a learning environment that draws heavily on the banking model of education where librarians are viewed as the authority on knowledge<sup>27</sup> and reinforces the exclusion and silencing of underrepresented people's voices.<sup>28</sup>

## **Conclusion**

While many of the anti-CRT, anti-DEI, and anti-LGBTQIA2s+ bills related to teaching in higher education were withdrawn due to missed deadlines (e.g., OK HB3135) or failed (e.g., OR HB2475), it's essential to consider the potential ramifications of these bills and acts on students entering publicly funded higher education institutions. Students from states with anti-CRT, anti-DEI, and anti-LGBTQIA2s+ bills may have been educated with a curriculum deficient in critical thinking skills, as well as historical, cultural, and sociological education, which could profoundly influence their learning in academia. Though many bills explicitly state the act does not infringe on First Amendment Rights nor prohibits intellectual freedom, ironically, these statements follow a list of prohibited topics. Another concern is the chilling effect of the legislation on parts of librarianship such as outreach and programming for people who identify as BIPOC, LGBTQIA2s+, underserved populations, and/or first-generation college students. At the core of the ACRL Framework is the

idea that information literacy fosters the growth of one's abilities to reflect, discover, and create information<sup>29</sup> as well as "participat[e] ethically in communities of learning."<sup>30</sup> Anti-CRT, anti-DEI, and anti-LGBTQIA2s+ bills impede the development of these information literacy abilities through curriculum censorship and silence the voices of the BIPOC and LGBTQIA2s+ community in scholarship and the classroom.

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## Notes

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