

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

SOUTH CAROLINA FREEDOM CAUCUS,
SUMMER ADAMS, on her own behalf and
on behalf of her minor child B.A.,
MORGAN DOE, on their own behalf and
on behalf of their minor children, A.D.
and B.D., and JAMIE ROE, on their own
behalf and on behalf of their minor
child C.R.,

Plaintiffs,

Civil Action No. 2022-CP-32-03931

v.

LEXINGTON COUNTY SCHOOL DISTRICT
ONE, and GERRITA L. POSTLEWAIT, in
her official capacity as Superintendent
of the Lexington County School District
One,

AMENDED COMPLAINT

(Jury Trial Requested)

Defendants.

1. This action challenges Lexington County School District One's refusal to comply with the duly enacted law of the State of South Carolina preventing schools from indoctrinating students in the Critical Race Theory-Derived Idea that individuals should be judged by the color of their skin.

2. Under South Carolina law, schools may not use state monies to indoctrinate students or staff in any of the following Critical Race Theory-Derived Ideas: "(1) one race or sex is inherently superior to another race or sex; (2) an individual, by virtue of his race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (3) an individual should be discriminated against or receive adverse treatment solely or partly because of his race or sex; (4) an individual's moral standing or worth is necessarily determined by his race or sex; (5) an individual, by virtue of his race or sex, bears responsibility for actions

committed in the past by other members of the same race or sex; (6) an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his race or sex; (7) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by members of a particular race to oppress members of another race; and (8) fault, blame, or bias should be assigned to a race or sex, or to members of a race or sex because of their race or sex.” 2022-2023 Appropriations Bill H. 5150, Part 1B Section 1, H630, § 1.93.¹

3. What this law prohibits, in essence, is using state money to indoctrinate teachers and students in the theories of racial primacy, which “reject the philosophy of ‘colorblindness’” as inherently racist.²

4. Those theories contradict America’s central promise, dating from the Declaration of Independence’s “self-evident” truth that “that all men are created equal”: “Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.” *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting).

5. Though one branch of the racial primacy theory began in the legal academy under the term “Critical Race Theory,” the theory’s adherents have rebranded the idea in the K-12 education context and elsewhere as antiracism, culturally responsive teaching, or diversity, equity, and inclusion. It is all the same pernicious, racist nonsense. Schools that adhere to these theories teach that students are oppressors or oppressed based on skin color and sex. They reject the notion of “colorblindness,” labeling it a manifestation of white supremacy. They engage in segregation of classes, discipline, and activities. All this cements racial castes within schools, leading impressionable young students to resent each other and themselves because of the color of their skin.

¹ A substantively identical provision governed during the State’s prior fiscal year. *See* 2021-2022 Appropriations Bill H. 4100, Part 1B Section 1, H630, § 1.105.

² Jacey Fortin, *Critical Race Theory: A Brief History*, N.Y. Times (Nov. 8, 2021), <https://www.nytimes.com/article/what-is-critical-race-theory.html>.

6. Despite South Carolina law's prohibitions on indoctrinating students with Critical Race Theory-Derived Ideas, Lexington County School District One continues to develop and use curricula promoting these beliefs. Through these curricula, similar instructional materials, and mandatory teacher and staff training in racist concepts, the School District is violating state law as it forces racist ideology on young children.

7. One of the School District's enablers is EL Education, which supplies curricula and professional training for multiple schools in the District. EL Education is obsessed with race. According to its website, "antiracism" is "at the core" of its curriculum. Antiracism requires "present discrimination" "based on [a] person's race" against disfavored racial groups. EL's trainers instruct teachers to "[u]se your understanding of racism and CRT [critical race theory] to leverage equity in your role through a culturally responsive lens," including "[d]ecolonizing the curriculum." An EL Education professional development specialist who recently came to the School District to indoctrinate teachers explained that "decolonizing" means to "decenter[] whiteness."

8. This racist indoctrination is reinforced by the District's other instructional materials. Books in the District's middle (and high) schools say that "if you are white or a white-passing Person of Color," you automatically have "internalized racial superiority" and must "spend your privilege by sharing the voices of Folx [sic?] of the Global Majority [defined as black, brown, and indigenous people], by stepping aside and giving them the space to lead." "If you are BIPoC [black, indigenous, or a person of color]," the District's books say, "[g]o to the head of the line and bring other Black and Brown folx with you." "If you are white, step aside." According to the District's materials for students, "racism is on the hands of white people in general as well as white people in particular"—and "[t]he oppression that

white people have inflicted on people of color” “can only be undone by the oppressors (white people).”

9. In short, the School District stands in violation of state law prohibiting the indoctrination of teachers and students with racist ideologies using state funds. The School District is also infringing South Carolina’s guarantee of equal treatment under the law and laws that protect students from discrimination. This Court should enjoin the School District’s ongoing legal violations, which harm impressionable students who the School District would turn against each other based on their race.

PARTIES

10. Plaintiff South Carolina Freedom Caucus is a legislative special interest caucus comprised of members of the South Carolina House of Representatives. The Caucus seeks to promote conservative principles like the rule of law and equal protection for all citizens under the law. The Caucus has a significant interest in ensuring that laws enacted by the General Assembly are given effect. The Caucus also has a significant interest in ensuring that students and teachers are protected from racist, ideological instruction and treated with equal dignity and respect. Part of the Caucus’s mission is to ensure that parents have full information about their children’s education. Finally, the Caucus has a significant interest in proper interpretation of laws passed by the General Assembly, interpretation that would protect students and teachers and give guidance to school districts. Members of the Caucus include Rep. Adam Morgan, Rep. RJ May, Rep. Josiah Magnuson, Rep. Mike Burns, Rep. Bill Chumley, Rep. Bobby Cox, Rep. Patrick Haddon, Rep. Stewart Jones, Rep. Steven Long, Rep. Ryan McCabe, Rep. Alan Morgan, Rep. Melissa Oremus, Rep. Ashley Trantham, Rep. April Cromer, Rep. David O’Neil, Rep. Joe White, Rep. Rob Harris, and Rep. Thomas Beach.

11. Caucus member Rep. May lives within Lexington County School District One, has a child who could imminently attend District schools, and represents constituents whose children attend District schools.

12. Caucus member Rep. McCabe also lives within Lexington County School District One and represents constituents whose children attend District schools.

13. Plaintiff Summer Adams is the parent of B.A., who attends River Bluff High School in Lexington County School District One.

14. Plaintiff Morgan Doe is a Lexington County School District One teacher at one of the schools using EL Education services, including for professional development. Their minor children, A.D. and B.D., attend schools in Lexington County School District One.

15. Plaintiff Jamie Roe is the parent of C.R., a minor child who attends a Lexington County School District One school using EL Education materials with students, including C.R.

16. Defendant Lexington County School District One is a public school district in Lexington County, South Carolina. Its headquarters are located at 100 Tarrar Springs Rd., Lexington, SC 29072.

17. Defendant Gerrita L. Postlewait is sued in her official capacity as the Superintendent of Lexington County School District One.

JURISDICTION AND VENUE

18. This Court has jurisdiction over this matter pursuant to S.C. Const. Art. V, § 11 and S.C. Code Ann. § 14-5-350.

19. This Court has personal jurisdiction over Defendants because the Defendants reside or do business in Lexington County, South Carolina.

20. Venue is proper in this circuit under South Carolina Code § 15-7-30 because the Defendants reside or do business in Lexington County, South Carolina,

and the acts and omissions that are the subject of this action occurred in Lexington County, South Carolina.

FACTS

21. EL Education is a company that seeks “to transform public schools and districts” to provide “equitable outcomes” through a language arts curriculum, professional development, and school design services.³

22. EL Education lists Meadow Glen Elementary School, Meadow Glen Middle School, Lakeside Middle School, Gilbert Middle School, Gilbert High School, and River Bluff High School in Lexington County School District One as “partners.”⁴

23. EL Education’s partners “implement the top-rated EL Education K-8 Language Arts curriculum.”⁵ Multiple schools in Lexington One incorporate EL Education curriculum. Multiple schools in Lexington One also use EL Education for teacher training and curriculum training services, including Lakeside Middle School and Meadow Glen Middle School. Multiple schools in Lexington One use EL Education for school design services.

24. According to its website, EL Education is an “antiracist organization” that “built our curriculum with equity in mind”: “We must iterate on our curriculum with antiracism at the core.” Thus, EL Education trumpets that “[t]he majority of core texts in grades 6-8 were authored by people of color” and “[a] majority of texts in the EL Education curriculum feature central characters who are people of color” (66%).

25. EL’s approach aims to force students to “develop antiracist practices and perspectives” and “uncover different kinds of oppression,” including those

³ *Our Approach*, EL Education, <https://eleducation.org/who-we-are/our-approach> (visited Nov. 15, 2022).

⁴ *Our Partners*, EL Education, <https://eleducation.org/who-we-are/our-partners> (visited Feb. 15, 2023).

⁵ *District Partnerships*, EL Education, <https://eleducation.org/what-we-offer/curriculum-services/district-partnerships> (visited Nov. 15, 2022).

“internalized” within a student. “A central goal of the EL Education curriculum is to” make students “ethical people,” which EL defines as having the “the same characteristics [as] people committed to antiracism.” EL’s “ethical” principles appear to consist of “antiracism,” “social justice, environmental stewardship, and healthy, equitable communities.”⁶ EL Education does not define the source or basis of these mandatory “ethical” principles.

26. EL Education seeks “to ensure students are developing critical consciousness of systems of oppression.” “To align with” EL Education’s “27-year history . . . rooted in beliefs about equity,” it aims to “explicitly empower students to be antiracist.” Likewise, EL instructs teachers “to more explicitly be antiracist and teach antiracism”: “If the EL Education curriculum is going to be a vehicle for developing antiracist students”—EL’s repeatedly-stated goal—“teachers must be empowered to recognize bias and support students to go beyond awareness to disruption.”⁷

27. EL Education views “education as a powerful engine for disrupting structural racism.” One “pillar[] of educational equity” it promotes is “[e]xplicit anti-racist discussion, practice, and action.” According to EL Education, “Anti-racism means taking an explicit stand against racism. We subscribe to author Ibram X. Kendi’s definition: ‘One either allows racial inequities to persevere, as a racist, or confronts racial inequities, as an antiracist. There is no in-between safe space of “not racist.”’”⁸

28. In Kendi’s view, “[t]he most threatening racist movement is . . . the regular American’s drive for a ‘race-neutral’ [society].” Ibram X. Kendi, *How To Be an Antiracist* 20 (2019). He (and by extension, EL and the District) believes that “[t]he

⁶ *How does the EL Education K-8 Language Arts curriculum address topics of race, racism, antiracism and cultural proficiency?*, EL Education, <https://perma.cc/A9R3-J6MF>.

⁷ *Id.*

⁸ *Our Commitment to Equity and Antiracism*, EL Education, <https://perma.cc/SGJ7-TG2C>.

only remedy to racist discrimination is antiracist discrimination. The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination.” *Id.* at 19. Kendi explains that this means “treating, considering, or making a distinction in favor or against an individual based on that person’s race”—and “advancing non-White Americans.” *Id.* at 19–20.⁹

29. Kendi explains that “[t]o be antiracist is to see ordinary White people as the frequent victimizers of people of color.” *Id.* at 129. He also says that “[t]he White body defines the American body” and “[t]he White body segregates the Black body from the American body.” *Id.* at 33.

30. EL Education’s materials advance these beliefs. For instance, its eighth-grade curriculum assigns Harper Lee’s *To Kill a Mockingbird* primarily to criticize the book for “center[ing] on the white experience of anti-black racism and present[ing] African American characters with limited agency.” The assignment “highly recommend[s] supplementing this reading with additional texts centering the voices of Black authors and characters and explicitly naming the problematic nature of the narrative in your teaching.” Teachers and students are told to “consider how the story could be reimaged to center the Black experience and the intersectionality of experiences and social identities.”¹⁰

31. A few days after this lawsuit was first filed, EL Education removed Kendi’s definition of antiracism from its “Commitment to Equity and Antiracism” website, while otherwise maintaining its obsession with antiracism. This continues EL Education’s efforts (echoed by the District) to disguise the race-based discrimination it advances by pretending that antiracism, equity, and related Critical

⁹ Kendi repeatedly confirms that the necessary “antiracist discrimination” means “treating, considering, or making a distinction in favor of or against a person’s or people group’s race.” Ibram X. Kendi & Nic Stone, *How to Be a (Young) Antiracist* 23 (2023); compare *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007) (“The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”).

¹⁰ *Considerations for Cultural Responsiveness*, EL Education, <https://perma.cc/AJ4B-7A7U>.

Race Theory ideas are neutral terms that just mean teaching history and equality. But as Kendi and the District's own materials (discussed below) make clear, antiracism does not mean colorblindness; it means present discrimination based on race. Equity does not mean equality; it means discriminating against children solely because of their skin color to remedy supposed disparities that have many and complex causes.¹¹ Creating antiracist activists—EL Education's stated goal—is not the same as teaching history. Everything is reduced to race, and everyone is treated on race. That is EL Education's approach, and it remains its approach even when it tries to delete definitions to hide the District's legal violations.

32. For instance, in third grade, EL Education assigns *Peter Pan* primarily to “explore” “racial and gender stereotypes” and “rewrite a scene from the novel to address or ‘fix’ the issues they encountered.”¹² According to the teacher's guide accompanying these lessons, the teacher must explain “that people in British society in the 1900s” “portrayed [different people] unfairly in ways that we would now describe as *racist* and *sexist*.” Students are instructed on the meaning of racist and sexist, with EL defining “sexist” as “showing the belief that one sex, *usually male*, is superior to the other” (emphasis added). Third graders must then “reflect silently” before “sharing any personal experiences with” racism or sexism. As EL acknowledges, this “may make some [students] feel uncomfortable”—but that is the goal of EL's stated antiracist agenda.

33. Likewise, EL Education assigns fifth graders readings about “athlete leaders of social change,” but not primarily to teach about a history of discrimination or (as one might expect in English class) critical reading skills. Instead, the ultimate

¹¹ Kendi expresses this myopic view: “As an anti-racist, when I see racial disparities, I see racism.” *When I See Racial Disparities, I See Racism: Discussing Race, Gender and Mobility*, N.Y. Times (March 27, 2018), <https://www.nytimes.com/interactive/2018/03/27/upshot/reader-questions-about-race-gender-and-mobility.html>.

¹² *How does the EL Education K-8 Language Arts curriculum address topics of race, racism, antiracism and cultural proficiency?*, EL Education, <https://perma.cc/A9R3-J6MF>.

task is to create a poster display on how “to be an effective leader of social change.” The goal is “to inspire students in their school to become leaders of change” and “work to become ethical people”—again, as understood by EL Education’s own ethical beliefs focused on race-based discrimination. Antiracist activism is the goal, not education, and teachers are instructed to “address[] current events including racism and xenophobia against Central and South American immigrants, African Americans, and Asian Americans.”¹³

34. The same instruction is given in EL’s fifth-grade module focused on *Esperanza Rising* and the Universal Declaration of Human Rights.¹⁴ There, the ultimate task is to deliver a monologue about an ongoing human rights issue, thereby “work[ing] to contribute to a better world” and “taking care of and improving shared spaces.” The “better world,” according to EL Education, is a world in which individuals are discriminated against based on their skin color.

35. Charlotte-Mecklenburg Schools recently chose EL Education’s curriculum “because across all of its modules and topics they begin to address issues of social justice, racism, anti-racism and cultural proficiency.”¹⁵

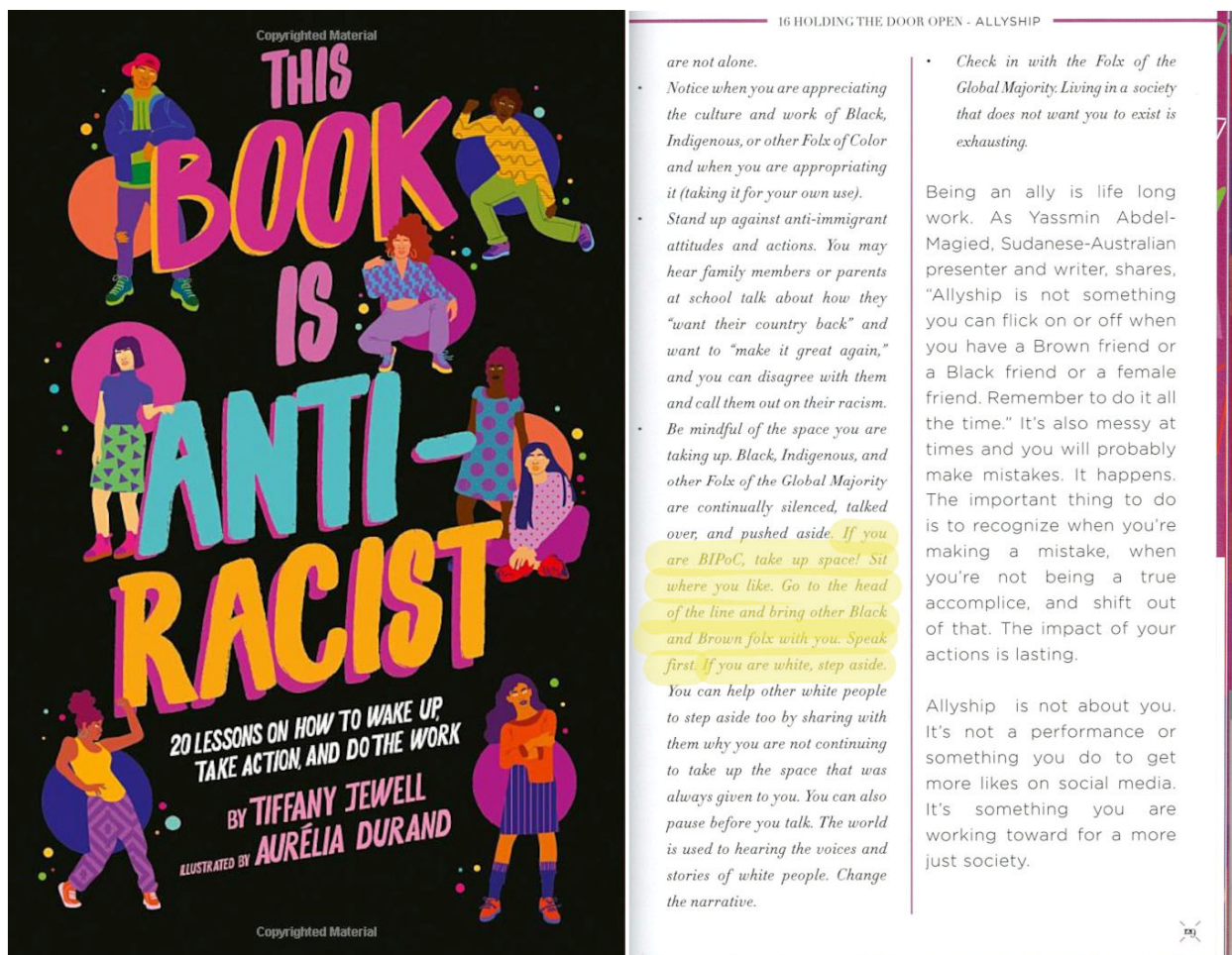
36. The District’s other instructional materials reinforce its racist indoctrination of students and teachers. Many of its schools (including Meadow Glen Middle School, Pleasant Hill Middle School, Gilbert Middle School, Carolina Springs Middle School, and River Bluff High School) use *This Book Is Anti-Racist: 20 Lessons on How to Wake Up, Take Action, and Do the Work*.

¹³ *Considerations for Cultural Responsiveness*, EL Education, <https://perma.cc/AJ4B-7A7U>.

¹⁴ *See id.*

¹⁵ Ann Doss Helms, *CMS Anti-Racist Reading Curriculum Faces Changes For Remote Instruction*, WFAE (Aug. 21, 2020), <https://www.wfae.org/education/2020-08-21/cms-anti-racist-reading-curriculum-faces-changes-for-remote-instruction>.

37. This book says that “if you are white or a white-passing Person of Color,” you automatically have “internalized racial superiority” and associated “biases.” According to the book, “[b]eing racist against white people is not a thing.” The book instructs: “If you are white, spend your privilege by sharing the voices of Folx [sic?] of the Global Majority, by stepping aside and giving them the space to lead, and by actually listening.” Likewise: “If you are BIPoC [black, indigenous, or a person of color], take up space! Sit where you like. Go to the head of the line and bring other Black and Brown folx with you. Speak first. If you are white, step aside.” “It is the job of white people to listen, learn, and grow,” says the book.¹⁶



¹⁶ Tiffany Jewell et al., *This Book Is Anti-Racist: 20 Lessons on How to Wake Up, Take Action, and Do the Work* 50, 102, 129, 131 (2020).

38. The District also uses Frederick Joseph's *The Black Friend: On Being a Better White Person*. This book is used in (at least) Meadow Glen Middle School, Pleasant Hill Middle School, Lexington High School, River Bluff High School, and White Knoll High School. In the book, the author writes: "[A]s a Black person, I speak on behalf of people of color (except those of us on Fox News) when I say: WE HAVE A WHITE PEOPLE PROBLEM." (The author later complains, apparently unironically, about those who "assume that all Black people" believe "the same things.") According to the author, "we have to learn a lot of white crap," but "white people never have to learn about us, because doing so would force white people to be held accountable for the many ways they've mistreated—and continue to mistreat—people of color." The book continues: "The oppression that white people have inflicted on people of color since, well, damn, the very inception of this country can only be undone by the oppressors (white people)." And lest there be any doubt, "[w]hite men are rightfully always on the hook," but "[w]hite women" should not be "let off scot-free."¹⁷

39. Another book used in the District's middle schools (including Pleasant Hill Middle School) is Emmanuel Acho's *Uncomfortable Conversations with a Black Boy*. According to this book, "racism is on the hands of white people in general as well as white people in particular": "all white people" are "accountable" for any historical mistreatment. White children are also instructed to be silent: "As a white person, never dominate the discussion, and try not to respond by reframing or reinterpreting what a black person or POC is saying."¹⁸

40. In the same vein is *Things That Make White People Uncomfortable*, featured at River Bluff High School and White Knoll High School. The message is the

¹⁷ Frederick Joseph, *The Black Friend: On Being a Better White Person* 2, 4, 15–16, 37, 172 (2020).

¹⁸ Emmanuel Acho, *Uncomfortable Conversations with a Black Boy* 164–66, 279 (2021).

same as the books above, and the point is provided by the book's opening quotation: "We have got to make the white population uncomfortable."¹⁹

41. Next, in M.T. Blakemore's *White Privilege*, Lexington One students read that "color blindness"—which "judge[s] people by their character, not their skin color"—"ignore[s] the problem of systemic white supremacy" and "makes white people blind . . . to racism." The book criticizes "[w]hite people" for "be[ing] reluctant to have these conversations" about white supremacy and specifically criticizes "white teachers" as having "implicit bias" against "African American students."²⁰

42. Beyond student indoctrination in Critical Race Theory, the District and EL Education also indoctrinate schoolteachers. In EL Education's view, "We are at a critical moment in time to actualize education . . . as an engine for equity." "[T]eacher professional learning for equity must" "include centering it on content related to equity and critical pedagogy."²¹

43. EL Education utilizes a method called "culturally responsive education," defined by an article it published as "an orientation toward teaching that is rooted in viewing historically marginalized students of color and their communities/families through an asset-based lens in a society that insists on viewing them as deficient." Culturally responsive education is "a means to disrupt whiteness" and "draw on the power and intellect of Black and Brown communities." EL Education's goal is to have this racist mindset "saturate[] pedagogy."²²

44. The article published by EL explained that teachers' whiteness presents a "roadblock" to implementing this concept: "With a predominantly white teaching

¹⁹ Michael Bennett, *Things That Make White People Uncomfortable* xii (2018).

²⁰ M.T. Blakemore, *White Privilege* 58–59, 90, 94 (2018) (Beechwood Middle School, Lexington High School, White Knoll High School, River Bluff High School).

²¹ *Teaching for Equity and Deeper Learning: How Does Professional Learning Transfer to Teachers' Practice and Influence Students' Experiences?*, EL Education, <https://perma.cc/UW9X-8E3G>.

²² Jamila J. Lyiscott, *Center Students with Culturally Responsive Teaching*, EL Education (Dec. 4, 2019), <https://perma.cc/A6YF-2U7P>.

force, many educators struggle to develop an asset-based lens toward communities they have been socialized to view as delinquent or in need of saving.”²³

45. A December 2020 presentation to Ohio educators by EL Education’s Director of Partnerships, a self-proclaimed “Critical Race Theory (CRT) Scholar,” confirms the connection between “culturally responsive teaching,” antiracism, and Critical Race Theory ideas. The presentation called for educators to be anti-racist in “your PERSONAL and PROFESSIONAL lives” and “[u]se your understanding of racism and CRT to leverage equity in your role through a culturally responsive lens,” including “[d]ecolonizing the curriculum.” “[O]ne of the first elements of understanding CRITICAL RACE THEORY,” according to the presentation, is “[c]entering the LIVED EXPERIENCES of BIPOC (BLACK, INDIGENOUS PEOPLE OF COLOR)” and “LGBTQ+ communities.” Quoting CRT proponent Ta-Nahisi Coates, the presentation tells educators to “[f]orget about intentions”: “ignore the head and keep your eyes on the body.” Accordingly, “[b]eing anti-racist” is different from being “not racist”; anti-racists must be obsessed with race. For instance, to be anti-racist, the presentation requires teachers to acknowledge that “whites benefit unfairly from structural racism.” A “key point” of the presentation was that “CRT trainings are essential for school leaders, teachers and staff.”²⁴

46. Around September 12, 2022, an EL Education professional development specialist traveled to Lakeside Middle School in Lexington County School District One to provide training on EL curriculum, including “crew” meetings (discussed below).

²³ *Id.*

²⁴ Crystal Belle, *Committing to Culturally Responsive and Anti-Racist Leadership Practices to Improve Equitable Outcomes for All Students*, <https://perma.cc/Q824-5P5J>.

47. Echoing the Ohio presentation, the specialist described her current focus as “decolon[izing] schools,” explaining that in education, “decolonizing” means “decentering whiteness, thinking about equity, and thinking about antiracism.”

48. The specialist explained that “[i]t’s really easy for us to say ‘we want to increase test scores,’” but “whose test scores? Equally?” Instead of equal opportunities, what she was “really focused on” in school partnerships was “achieving equitable outcomes,” such as “[t]rying to get more students of color into AP classes.” The specialist said that “we know that state tests are inequitable.”

49. The specialist highlighted school staff “crew” meetings, which are mandated by EL Education and ask teachers “what aspects of my identity are visible” and “how do those show up in my classroom.” These questions are intended to “trickle-down” to student “crew” classes, which are daily, 30- to 45-minute meetings with the same group of students to discuss non-academic topics.²⁵

50. In an EL Education video touting student crew meetings and displaying conversations that took place during those meetings—including meetings at Lexington One—one student said that “[o]bviously segregation is well and alive [in my community], but it’s unconscious.” Another said that “[i]t’s always the black people reaching out to the white people.” While discussing law enforcement, another student said that “I’m not white, so they see me different. Stereotypes.”²⁶

51. Students at District schools, including C.R., were forced to watch this video in August 2022, and participate in crew meetings in which these ideas were introduced.

52. Students at River Bluff High School are forced to participate in these crew meetings. For these students, nearly 8% of total classroom time is spent in crew

²⁵ See *Elements of a Crew Meeting*, EL Education, <https://eleducation.org/resources/elements-of-a-crew-meeting> (visited Nov. 15, 2022).

²⁶ *The Power of Crew*, EL Education, <https://perma.cc/4Z8Y-YWGB>.

meetings about non-academic topics, as EL seeks to impose its “ethical” (racist) beliefs on impressionable students.

53. At River Bluff High School, students were required to participate in a “privilege test,” in which the teacher made a series of statements and separated the students to each side of the classroom based on their responses, with the purpose and effect of creating a divide between students based on their race. Statements included “I get to eat three meals a day,” “I have two parents in my house,” “I fear for my life when I see the police,” and “I get treated unfairly because of my heritage.” By the end of the exercise, the “privileged” students—practically all white—were at one side of the classroom and the “oppressed” students—practically all minorities—were at the other. The teacher then forced the students to discuss why the room was divided in this way, and suggested that white students were privileged because of their race and were preventing minorities from obtaining equity. The teacher threatened the grades of students who did not “actively participate.”

54. Around August 3, 2022, an EL Education trainer went to Lakeside Middle School to provide training for faculty and staff, specifically about the curriculum for grades six through eight.

55. According to the trainer, “[w]e are working on a curriculum” that “is inclusive of culturally relevant teaching.” The trainer explained that “[s]ome of the topics that we explore” “go against mainstream teaching.”

56. For instance, the curriculum promotes “counter-narrative[s] to some of the mainstream beliefs.” So “every time you read the Constitution, you’re going to read a counter-narrative that is by some person of color” that “counters” the statement. “The law might say all men are created equal,” but a counter-narrative would be required.

57. According to the trainer, the curriculum's reception "[d]epends on what kind of teacher you are: if you are a teacher who celebrates diverse cultures, then you would be open" to the curriculum.

58. Training for teachers involves demanding that they "tell [the trainer] about your privileges" and "what parts of your identity are privileged."

59. The trainer emphasized that "We have some people who are willing to be allies, and some people who are willing to be co-conspirators." An "ally" offers general support, while a "co-conspirator" says (in the trainer's words) "I'm willing to do this work in my classroom even if I get in trouble." The trainer placed this discussion around South Carolina policies prohibiting teaching racist ideologies in schools.

60. In a publication, the trainer has written that "pedagogies and assessments that are culturally responsive [are] about helping both teachers and students to develop a critical consciousness through which they challenge the status quo of the current social order."²⁷

61. Lexington One pays for teachers to take professional development courses and attend conferences. The District sent teachers, including teachers at Gilbert Middle School, specifically to EL Education seminars and conferences.

62. The District paid for Lexington One teachers to attend the 2022 EL Education National Conference in December 2022. There, teachers were taught how to "promote culturally sustaining pedagogies," "center[] on student identity," and "mak[e] diversity, equity, and inclusion a cornerstone" in their classrooms.²⁸

²⁷ Tarika Sullivan et al., *Developing Culturally Relevant Literacy Assessments for Bahamian Children*, Int'l J. of Progressive Educ., Vol. 14 No. 1, at 144 (2018).

²⁸ *National Conference 2022 Session Catalog*, EL Education, <https://perma.cc/WNV8-EX7Y>.

63. Teachers were also taught that “systemic oppression” continues to marginalize students and were instructed in one of EL Education’s main educational goals: achieving “equitable outcomes for all students.”²⁹

64. One session’s stated goal was to prepare teachers “for engaging in equity work” and help them “understand[] how to create conditions to ensure that all children experience liberatory, anti-racist education” by “implementing explicit anti-racist discussion, practices, and actions.”³⁰

65. Another session taught teachers how to “integrate DEI [diversity, equity, and inclusion] practices into all aspects of [their] school to move beyond the bar of dismantling White Supremacy Culture toward a more holistic vision.”³¹

66. At the Conference, Quintin R. Bostic II, Ph.D., taught a session on Culturally Responsive-Sustaining Education. Bostic instructed teachers on “culturally relevant pedagogy,” “culturally responsive teaching,” and “culturally responsive-sustaining education.” According to the session description, teachers were trained to “interrogate their own beliefs and biases.”³²

67. Bostic recently admitted to violating Georgia law by selling Teaching Lab material that teaches Critical Race Theory. Bostic does this by disguising Critical Race Theory curriculum as “Diversity, Equity, and Inclusion” (DEI) material: “If you don’t say the word ‘critical race theory,’ you can technically teach it.” Aware that he regularly violates the law, he acknowledged that he is a “good salesman but . . . also an evil salesman. Like, so bad.” He further acknowledged that Georgia pays for the curriculum “without knowing what’s in it”: “They have no clue, and I’m like ‘this is

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

great—this is good!”³³ Bostic brought these techniques to the EL Education Conference that the District paid for its teachers to attend.

68. In addition to EL Education’s race-based training, Lexington One itself trains its teachers in Critical Race Theory-Derived Ideas.

69. Lexington One sponsored, advertised, and subsidized a professional development class for teachers titled “Equity in Education: Taking Action in the Classroom.” The class was taught by a Lexington One employee. Participants read *For White Folks Who Teach in the Hood...and the Rest of Y’all Too* by Christopher Emdin and *Cultivating Genius* by Gholdy Muhammad. Class participants—including Lexington One teachers—used these books for training on “equity, identity, systemic racism, and supporting topics.”

70. In *For White Folks Who Teach in the Hood*, Emdin refers to minority students as “neoindigenous” because, according to Emdin, the term “allows us to understand the oppression these youth experience” and “position[s] these youth in a larger context of marginalization, displacement, and diaspora.”³⁴

71. Emdin explains that the term “white folks” “is an obvious racial classification” and “identifies a group that is associated with power and the use of power to disempower others.”³⁵

72. In the book—again, used by Lexington One’s professional development course—Emdin claims that “white middle-class teachers” “promote[] an imaginary white middle-class ideal” in their classrooms. Emdin argues that “[a]s long as white middle-class teachers are recruited to schools occupied by urban youth of color, without any consideration of how they affirm and reestablish power dynamics that

³³ ‘*Evil Salesman*’ Admits Plan to Violate Georgia State Law by Secretly Indoctrinating Children with ‘Critical Race Theory’ Disguised as ‘Diversity, Equity, & Inclusion’...It’s Still Banned in Schools’...*I Would Get Nailed*, Project Veritas, <https://perma.cc/RNW2-HATU>.

³⁴ Christopher Emdin, *For White Folks Who Teach in the Hood...and the Rest of Y’all Too* 9 (2016).

³⁵ *Id.* at 15.

silence students, issues that plague urban education . . . will persist.” He further asserts that “[t]he work for white folks who teach in urban schools . . . is to unpack their privileges and excavate the institutional, societal, and personal histories they bring with them when they come to the hood.”³⁶

73. Emdin claims that “white cultural traditions” “oppress and silence the indigenous and neoindigenous.”³⁷

74. Emdin urges every teacher “who works with the neoindigenous” to “recognize their students’ neoindigeneity and teach from a standpoint of an ally who is working with them to reclaim their humanity.” “For white folks,” he says, the required “unpacking” will be “much more intense.”³⁸

75. In another book used by Lexington One’s professional development training, *Cultivating Genius*, Lexington One teachers read that if they want to “get it right with all youth, a productive starting point is to design teaching and learning to the group(s) of students who have been marginalized the most in society and within schools.” According to the author, *Cultivating Genius* provides a “framework[] that [has] been written by people of color and designed *for* children of color.” “The model and content of this book puts *critical theory*, sociocultural theory, and cognitive theories collectively into a practical model for teaching and learning.” Further, “[t]his book was especially written to support . . . Black and Brown students.”³⁹

76. One of the goals of *Cultivating Genius* is to help teachers “understand power, authority and anti-oppression (criticality),” and train them on how to instruct their students “to read, write, and think in the context of understanding power, privilege, and oppression.”⁴⁰

³⁶ *Id.* at 9, 15.

³⁷ *Id.* at 12.

³⁸ *Id.* at 40–41.

³⁹ Gholdy Muhammad, *Cultivating Genius: An Equity Framework for Culturally and Historically Responsive Literacy* 11–12 (2020) (emphasis added).

⁴⁰ *Id.* at 12.

77. Lexington One teachers read that America “was founded on oppression.”⁴¹

78. The book assigned by Lexington One urges teachers to “centralize anti-racism, anti-oppression, [and] learning about Black educational history or Black learning theorists.” It argues that “we too often see ‘diversity’ or ‘multicultural’ classes as isolated efforts rather than grounding entire programs in intersectionality as we see in Black and cultural studies programs. . . . If we as a nation are struggling to ‘get it right’ with Black and Brown student populations, shouldn’t we ground teacher preparation in the essence of Black and cultural learning theories and practices?” The book complains that curriculum is too often “guided by Whiteness and lack[s] education that teaches youth to be socially and politically conscious beings.”⁴²

79. The book asserts that “Whiteness pervades nearly everything from nursery rhymes, cartoons, children’s literature in the Common Core State Standards, and the ways in which we interact with and teach our students.”⁴³

80. The book urges teachers to use material “designed by people of color for youth of color.”⁴⁴

81. The book encourages readers to use a teaching method called Historically Responsive Literacy (“HRL”). This method focuses on students’ “histories,” “identities,” and “literacies.” Possible “identities” include students’ races, ethnicities, and genders. HRL “specifically calls for urgent pedagogies that are not just responsive to the social times but pedagogies that are anti-racist and overall, anti-oppressive.”⁴⁵

⁴¹ *Id.* at 22.

⁴² *Id.* at 40.

⁴³ *Id.* at 54.

⁴⁴ *Id.* at 66.

⁴⁵ *Id.* at 49–50, 54.

82. The book criticizes states' emphasis on students' skills, rather than on "other important qualities such as identity, anti-racism, and criticality."⁴⁶

83. The book argues that teachers "must not just be non-racist or non-oppressive but also work with passion and diligence to actively disrupt oppression in and outside of the classroom."⁴⁷

84. The book asks readers "How have others profited from the failure of Black and Brown youth?"⁴⁸

85. The book urges teachers to instruct their students on Critical Race Theory ideas: "Critical theories that are helpful for educators include critical race theory, Black feminist theory, and [Latina & Latino Critical Legal Theory]."⁴⁹

86. Another book used by the District (including at Beechwood Middle School and White Knoll High School) is Robin DiAngelo's notorious *White Fragility: Why It's So Hard for White People to Talk About Racism*. According to this book, "all white people are racist," "[a]ll white people are invested in and collude with racism," and "only whites can be racist." The "goal" of the book is to make "white readers" feel "discomfort": "White people do need to feel grief about the brutality of white supremacy and [their] role in it." *All* white people, proclaims DiAngelo, "have a racist worldview, deep racial bias, racist patterns, and investments in the racist system," and they "fundamentally hate[] blackness for what it reminds [them] of: that [they] are capable and guilty of perpetrating immeasurable harm and that [their] gains come through the subjugation of others."⁵⁰

87. Lexington One's professional development staff urged teachers to read an educator's article discussing her "journey to be aware and color-brave"—rather

⁴⁶ *Id.* at 86.

⁴⁷ *Id.* at 118.

⁴⁸ *Id.* at 133.

⁴⁹ *Id.* at 117.

⁵⁰ Robin DiAngelo, *White Fragility: Why It's So Hard for White People to Talk About Racism* 13, 22, 95, 117, 137, 149 (2018).

than color-blind—and touted the article as “giv[ing] tips on how to investigate your personal lens and ways to start and sustain the conversation around disparity and equity.”

88. In that article, the author rejected the idea of color-blindness, which she defines as the notion that “we’re all just human beings.” Instead, the author encourages teachers to be “color-brave,” or race conscious. She argues that only through this race focus can teachers “create equitable change in education.”⁵¹

89. Lexington One urged teachers to go to a conference focused on “Anti-Blackness in Higher Education.” The conference included sessions titled “Geography of Opportunity: Poverty, Place, and Educational Outcomes,” “From Equity Talk to Equity Walk,” “Plantation Politics & Campus Rebellions: Power, Diversity & the Emancipatory Struggle in Higher Education,” and “Know Your Price: Valuing Black Lives and Property.”

90. The conference included a discussion *on From Equity Talk to Equity Walk: Expanding Practitioner Knowledge for Racial Justice in Higher Education* by Tia Brown McNair, Estela Mara Bensimon, and Lindsey Malcolm-Piqueux. McNair led the discussion. In the book, she discusses three aims of racial equity in higher education: to (1) “[c]orrect the educational injustices perpetrated by policies and practices that resulted in the systematic marginalization of populations whose ties to the United States came about involuntarily through enslavement, colonization, usurpation of territory, or genocide”; (2) “[e]levate antiracism as an agenda” in education; and (3) “[m]ake whiteness be seen as the problem.”⁵²

91. According to McNair, racial equity is premised on the following principles: (1) “[e]quity is a means of corrective justice for the educational debt owed

⁵¹ Rosa Isiah, *The Leadership Journey from Color-Blind to Color-Brave*, ASCD, <https://perma.cc/J9PY-WJJ2>.

⁵² Tia Brown McNair et al., *From Equity Talk to Equity Walk* 101 (2020).

to the descendants of enslaved people and other minoritized populations”; (2) “[e]quity is an antiracist project to confront overt and covert racism embedded in institutional structures, policies, and practices”; and (3) “[e]quity lets practitioners see whiteness as a norm that operates, unperceived, through structures, policies, and practices that racialize the culture and outcomes.” McNair claims that “[t]hese principles are fundamental to the project of racial equity” and “demonstrate why it is *necessary to adopt a critical race stance* toward equity.”⁵³

92. In reference to one illustration titled “The Pervasiveness of White Privilege and Institutionalized Racism,” McNair admonishes the white characters for their behavior and claim that “[m]ost white administrators lack the knowledge, experience, or awareness to consider the incident . . . as a reflection of veiled racism and white privilege.” McNair explains how to “remediat[e] whiteness in practices” to be more “equity-minded.”⁵⁴

93. McNair claims that “whiteness [is] a pervasive condition” that “determines, albeit mostly invisibly, the processes by which things get done.” McNair argues that “leaders, administrators, faculty, staff, and trustees need to understand whiteness to unlearn it.”⁵⁵

94. McNair urges readers—including teachers at Lexington One directed to attend this professional development conference—to be “critically race-conscious.”⁵⁶

95. The District used state monies on the curricula, instructional materials, professional development, and training discussed above.

96. By unlawfully indoctrinating students and teachers in Critical Race Theory-Derived Ideas, Defendants have impaired the South Carolina Freedom Caucus’s mission. Since its inception, the Caucus has sought to ensure that students

⁵³ *Id.* at 20–21 (emphasis added).

⁵⁴ *Id.* at 35–36.

⁵⁵ *Id.* at 102.

⁵⁶ *Id.* at 112, 114.

and teachers are protected from racist, ideological instruction and treated with equal dignity and respect. It has also sought to ensure that parents and the public (their constituencies) know what children are taught in public schools. The District's violations cause injury to those missions, for those violations make it more likely that students and teachers will be indoctrinated in racist ideologies. The District's violations also make it harder for the Caucus to keep parents accurately informed about their children's education, for the District and EL Education have disguised problematic teachings to maintain the District's state funding. These violations injure the Caucus by forcing it to expend additional time and resources to investigate, monitor, and respond to the District and its activities, so the Caucus can fulfill its mission. The Caucus has expended and will continue to expend time and resources attempting to prevent racist indoctrination of children and teachers of the type used by the District. By devoting time and resources in response to the District's indoctrination and violations, the Caucus must divert resources from its normal operations.

97. Judicial relief against the Defendants for their legal violations would likely redress the Caucus's injuries by, *inter alia*, allowing it to maintain its resources as allocated on other priorities relevant to its mission, and making it easier to keep parents accurately informed about their children's education.

98. Additionally, a Caucus member (Rep. May) lives in Lexington One and must imminently decide whether to enroll his child in a Lexington One school for the 2023-2024 school year. Enrollment for Lexington One kindergarten began January 30, with older ages registering soon, and many private schools have already started enrollment. The District's ongoing violations will force him to choose whether to subject his child to racist indoctrination or pay the substantial additional costs of private school.

99. Judicial relief against the Defendants for their legal violations would likely redress this member's injuries by, *inter alia*, allowing him to choose a school for his child without the threat of racist indoctrination forcing extra expenditures to counter the Defendants' violations.

100. Plaintiff Summer Adams is the parent of B.A., who attends River Bluff High School, where they are subjected to EL's race-based curriculum, including crew meetings and instruction. Their teachers are being instructed by the District to treat students differently based on race, raising the imminent likelihood that they and their classmates will be judged based on their skin color. Their instructional materials expressly advocate for such judgment. To avoid the injuries of her child being subjected to racist indoctrination—and being labeled as an oppressor or evil based solely on the color of their skin—Adams would have to expend significant money or other efforts to move them to another school.

101. Judicial relief against the Defendants for their legal violations would likely redress Adams's and B.A.'s injuries by, *inter alia*, preventing the District from indoctrinating children in racist ideologies and thereby harming their educational opportunities and treating them differently based on their skin color, as well as preventing Adams from having to engage in efforts to escape the District's violations of state law.

102. Plaintiff Morgan Doe is a teacher in a District school using EL Education. The District requires Doe to attend professional development training, while simultaneously directing teachers to training focused on Critical Race Theory-Derived Ideas—thereby pressuring Doe into attending trainings that violate state law. Moreover, after the initial complaint in this action was filed, the school officials at Doe's school informed Doe that they would be increasing use of EL services and curricula in the spring. The District's use of racist trainings and curricula harms Doe by subjecting them to racist ideologies on pain of losing their job. Forcing Doe to teach

students the racist ideologies at the foundation of EL's services would further harm Doe. Though Doe's school officials do not use the term "critical race theory," the tenets offered via EL and the District are the same, race-based ideologies. Doe views EL Education—and, by extension, the District—as deliberately and underhandedly indoctrinating and training children to judge or value people differently because of their race.

103. Judicial relief against the Defendants for their legal violations would likely redress Doe's injuries by, *inter alia*, preventing the District from forcing Doe to train in and teach using racist ideologies.

104. Plaintiffs A.D. and B.D. are minor children who attend District schools using instructional materials and trainings discussed above. Moreover, because the District is increasing use of EL Education and its race-based instructional methods, these students are at imminent risk of being further subjected to racist indoctrination and other harms. Those harms include being treated differently by their teachers and fellow students because of their skin color—as demanded by the "antiracist" principles that are at the core of EL's approach. And their parent, Doe, is injured by having to choose between a public education rife with racist indoctrination and an expensive private education.

105. Judicial relief against the Defendants for their legal violations would likely redress A.D.'s and B.D.'s injuries by, *inter alia*, preventing the District from indoctrinating them in racist ideologies and harming their educational opportunities by treating them differently based on their skin color. It would redress Doe's injury by enabling them to obtain an appropriate education for their children without paying for an expensive private school.

106. Plaintiff Jamie Roe is the parent of C.R., who attends a District school using EL Education and other instructional materials discussed above. C.R. has been subjected to EL's crew meetings and instruction, including the video discussed above.

To avoid the District's violations, Roe would have to expend significant money or other efforts to move C.R. to another school.

107. Judicial relief against the Defendants for their legal violations would likely redress Roe's and C.R.'s injuries by, *inter alia*, preventing the District from indoctrinating C.R. in racist ideologies and thereby harming their educational opportunities, as well as preventing Roe from having to engage in efforts to escape the District's violations of state law.

FIRST CAUSE OF ACTION

Violation of H. 5150 and Its Predecessors

108. The allegations of the above paragraphs are incorporated into this cause of action.

109. H. 5150 prohibits Defendants from using state monies to indoctrinate students or teachers in Critical Race Theory-Derived Ideas.

110. Defendants are training teachers in Critical Race Theory-Derived Ideas, developing curriculum and instructional materials for students based on those ideas, and otherwise disregarding the strictures of H. 5150 and its predecessors.

111. Defendants' failure to adhere to H. 5150 is *ultra vires* and should be enjoined by this Court.

SECOND CAUSE OF ACTION

Constitutional Right to Equal Protection

112. To the extent they are not inconsistent with this cause of action, the allegations of the above paragraphs are incorporated into this cause of action.

113. Article I, section 3 of the S.C. Constitution provides: “The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”

114. South Carolina’s guarantee of equality under the law includes a promise that similarly-situated public school students and teachers will be treated the same regardless of their race.

115. By developing professional training, curricula, and instructional materials around Critical Race Theory-Derived Ideas and forcing students and teachers to participate, Defendants have engaged in impermissible racial stereotyping, differential treatment based on race, and promotion of a racially hostile environment. These actions discriminate based on race and therefore violate equal protection.

THIRD CAUSE OF ACTION
Violation of S.C. Code Ann. § 59-63-130

116. To the extent they are not inconsistent with this cause of action, the allegations of the above paragraphs are incorporated into this cause of action.

117. Under South Carolina’s Safe School Climate Act, “[a] person may not engage in” “harassment, intimidation, or bullying,” which includes an act “that is reasonably perceived to have the effect of” “harming a student physically or emotionally” or “insulting or demeaning a student or group of students causing

substantial disruption in, or substantial interference with, the orderly operation of the school.” S.C. Code Ann. §§ 59-63-120, -130.

118. By developing curricula and instructional materials around Critical Race Theory-Derived Ideas, such as students being oppressors based on their skin color, Defendants have harmed and demeaned students. They have also caused disruption to the orderly operation of schools.

FOURTH CAUSE OF ACTION
Violation of S.C. Code Ann. § 59-63-40

119. To the extent they are not inconsistent with this cause of action, the allegations of the above paragraphs are incorporated into this cause of action.

120. Under S.C. Code Ann. § 59-63-40, no student may “be excluded from any public school in the State on account of race, creed, color or national origin.”

121. By developing curricula and instructional materials around Critical Race Theory-Derived Ideas, Defendants are *de facto* excluding students from schools based on their race.

WHEREFORE, Plaintiffs request that judgment be entered against Defendants: (1) **DECLARING** that Defendants have violated H. 5150 and its predecessors, the South Carolina Constitution, S.C. Code Ann. § 59-63-130, and S.C. Code Ann. § 59-63-40, (2) **ENJOINING** Defendants from continued violations, (3) **AWARDING** Plaintiffs their attorneys’ fees and costs; and (4) **GRANTING** other relief that the Court may deem just, proper, or equitable.

Dated: March 1, 2023

Respectfully submitted,

s/ Christopher Mills
CHRISTOPHER MILLS
(SC Bar No. 101050)
Spero Law LLC
557 East Bay Street #22251
Charleston, South Carolina 29413
Telephone: (843) 606-0640
cmills@spero.law

Attorney for Plaintiffs