

KNOW YOUR RIGHTS



#TEACHTRUTH

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WHAT EDUCATORS SHOULD KNOW ABOUT UTAH'S H.B. 427 AND STATE BOARD RULE ON INSTRUCTING STUDENTS ABOUT OUR COUNTRY'S HISTORY

Special interest groups and policy makers across our country, in yet another attempt to divide Americans along partisan and racial lines, are pushing legislation that seeks to stifle discussions in public schools that celebrate our country's greatest triumphs and examine our darkest moments, attempting to restrict students' freedom to learn from the past and make a better future. They are working hard to censor classroom discussions on topics like race, racism, sex, sexism or inequity.

Despite the rhetoric around them, most of these proposed or enacted laws do not prohibit teaching the full sweep of U.S. history, including teaching about nearly 250 years of chattel slavery, the Civil War, the Reconstruction period, or the violent white supremacy that brought Reconstruction to an end and has persisted in one or another form ever since. Nor should most of these laws and policies undermine efforts to ensure that all students, including historically marginalized students, feel seen in the classroom and benefit from culturally responsive and racially inclusive curricula and pedagogical tools that teach the truth about our country and prepare students to meet the demands of a changing and increasingly globalized world.

In Utah, these efforts resulted in H.B. 427, the Individual Freedom in Public Education Act, as well as a rule by the State Board of Education that governs how certain instruction is provided.

The following answers some FAQ's about H.B. 427 and the State Board rule.

If you or a colleague feel your ability to teach the truth is stifled by how your district is interpreting or enforcing the Individual Freedom in Public Education Act or the State Board rule, you can take action. Remember that you are most protected when you speak out outside of work, at a school board meeting, in your church, or other local community group. If you are represented by UEA, reach out to your local representative for assistance. You can find additional help at the resources linked below.



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Q&A

What is this new state law and what does it do?

o On March 15, 2023, Utah Governor Spencer Cox signed the Individual Freedom in Public Education Act (H.B. 427) into law. The act is linked [here](#) and will take effect on July 31, 2023.

4 o The law compels local education associations to assure the State Board of Education that all their professional learning, administrative functions, displays, and instructional and curricular materials are consistent with certain “principles of individual freedom.” These principles include that:

- “all individuals are equal before the law and have unalienable rights;”
- “no individual is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of the individual’s race, sex, or sexual orientation;”
- “no race is inherently superior or

inferior to another race;”

- “no person should be subject to discrimination or adverse treatment solely or partly on the basis of the individual’s race, color, national origin, religion, disability, sex, or sexual orientation;”
- “meritocracy or character traits, including hard work ethic, are not racist nor associated with or inconsistent with any racial or ethnic group; and”
- “an individual, by virtue of the individual’s race or sex, does not bear responsibility for actions that other members of the same race or sex committed in the past or present.”

o The state board of education or a local board of education also may not:

- attempt to persuade a student or staff member to adopt a point of view that is inconsistent with the above principles; or
- implement policies or programs (or allow staff to implement policies or programs) with

content that is inconsistent with the above principles.

o The law prohibits instructional and professional learning materials and standards that are inconsistent with the above principles. Specifically,

- The State Instructional Materials Commission may not recommend to the state board any instructional materials that violate the law or are inconsistent with the above principles; and
- The state board and state superintendent may not develop new core standards or professional learning or continue to use existing standards or professional learning that are inconsistent with the above principles.

o Prior to the law being passed, on June 3, 2021, the Utah State Board of Education adopted a new rule, “R277-328 Educational Equity in Schools,” which is linked [here](#) and took effect in August 2021.



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- o The rule requires districts to provide educators with professional development on “educational equity,” including fostering “a learning environment and workplace that are safe and respectful of all students and educators,” “implementing principles and strategies of inclusion,” and “defending intellectual honesty including freedom of inquiry, speech and association.”
- o The rule also prohibits the promotion or endorsement of the following concepts in professional development for educators or the instruction of students, that:
 - a student or educator’s sex, race, religion, sexual orientation, gender identity or membership in any other protected class (“protected characteristics”) is inherently superior or inferior;
 - such protected characteristics determine the content of the student or educator’s character including their values, morals, or personal ethics;
 - a student or educator bears responsibility for the past actions of individuals with those same protected characteristics; and
 - a student or educator should be discriminated against or receive adverse treatment because of those protected characteristics.
- o The rule expressly provides that it does not “prohibit or ban discussions of events, ideas, attitudes, beliefs, or concepts” as part of “the general sharing and participation in the marketplace of ideas fostered in a learning environment.” At the same time, educators may not “promote one ideology over another.”
- o The rule is enforced through the same formal complaint process that schools use for concerns of fraud, waste, abuse or noncompliance. The State Superintendent must also create models for professional learning, which will be approved in an open and public meeting of the Board. The professional development provided by school districts shall be available to parents upon request.

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

- o Yes! The Utah Standards for Social Studies are divided into

grades [K-2](#), [3-6](#), and [7-12](#), and they remain intact. [Revised elementary standards](#) go into effect for the 2024-2025 school year. Under both the current and revised standards, elementary school students must learn about the rights of different populations over time in both Utah and the United States. Middle and high school students learn about slavery and the Civil Rights Movement. The state’s suggested guidance questions for U.S. History include, for example, “[h]ow do people work and organize to respond to systemic domestic problems such as economic inequality, racism, or environmental degradation?” (U.S. II Strand 8).

- o The law and State Board rule do not prohibit classroom lessons on race, racism, white supremacy, chattel slavery, Reconstruction, Jim Crow laws, the civil rights movement, and systemic inequality.
- o The law and State Board rule do not prohibit classroom lessons on the contributions of women, gender inequality, the women’s



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suffrage movement, and the struggle for equality and civil rights for women.

- o Classroom lessons aligned with the [Utah Standards for Social Studies](#) curriculum standards remain defensible.
- o As always, you should never teach that any race or sex is inherently superior or inferior to another race or sex, or that individuals should be treated badly on the basis of their race or sex.

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

- o As an educator, you know how to handle challenging questions in professional and age-appropriate ways.
- o If you are planning a classroom lesson about a current event or controversial topic that also involves discussion of race, racism, sex, or sexism, be sure your curriculum is age-appropriate and aligned with the [Utah Standards for Social Studies](#) curriculum standards and past practice.

- o You may also consider notifying or getting approval from your school principal or administrator if a particular instructional approach is likely to be controversial in your classroom or the community.

What if there is a racial incident, or an incident motivated by racism, in the school?

- o Neither the law nor the State Board rule relieves school districts of their obligations under federal and state law to enforce anti-bullying, anti-harassment, and nondiscrimination policies in schools. Your school district likely has a policy in place to address these types of incidents. Provided you are responding to the incident in a way that is in line with that policy, your conduct should be protected.

How can I continue to foster an inclusive environment at my school? / Can I display a Black Lives Matter flag, etc. in my classroom?

- o We know that culturally responsive and racially inclusive curriculum and pedagogical approaches work. They engage students and improve student retention and achievement. Talk to your school principal or

administrator about the importance of making sure all students feel seen and supported in your classroom and school, and the ways your school can make sure this happens.

- o If you plan on posting a symbol of inclusion, such as a Black Lives Matter, LGBTQIA+ Pride, or DREAMers flag or poster, and have not seen other educators posting similar items in their classrooms, make sure to tell your school principal or administrator in advance so you can address any concerns they may have. If your school principal or another school administrator bars you from posting such inclusive signage, consult your union representative about how best to proceed.

What happens if a parent, student, or member of the community accuses me of violating the law?

- o The new law does not create a private right of action for parents against educators.
- o The School Board rule uses a complaint system already in place in Utah. Every school district must create a hotline, which can be a



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phone number, email, or online complaint form, and publish it on their website, where stakeholders can report violations. A complaint may prompt a school district to initiate a disciplinary action against you.

- o If your school district or the Utah State Board of Education takes action against you for an alleged violation of the law or State Board rule, and you are a member of the Association, contact your building representative or UniServ Director for assistance. You can find your local associations' contact information on the Utah Education Association site [here](#).
- o Your representative can assist you in determining what rights you have. If you have been teaching in the same school district in Utah for more than three years and are professionally certified, you likely have an expectation of continued employment. That means your school district must give you at least written notice and a right to be heard ("due process") before they can fire you or fail to renew your contract. If you are not career status (you are provisional, temporary, or on a one-year contract), your school district generally can choose not to renew

your contract for any reason or no reason. Even then, school districts can't choose not to renew your contract for an unlawful reason, such as your race or sex, or as punishment because you properly exercised your free speech rights outside of school (as described below).

How can I support my students /oppose this law outside of school?

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

How can I get more involved?

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

- o State specific opportunities can be found on the UEA Website: myuea.org.
 - [Under the Dome](#)
 - [Teaching the Truth Tool Kit](#)
 - [Educator Day on the Hill](#)
 - [Policy Ambassador](#)

Where can I go for more information on this issue?

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



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