



September 8, 2023

Dear Governor Newsom and Superintendent Thurmond,

The University of California Ethnic Studies Faculty Council writes to express deep concern about the censorship of ethnic studies through the mechanism of “guardrails.” Ethnic studies is a 60-plus-year-old scholarly project that analyzes, confronts, and intellectually dismantles historical and institutionalized forms of racism, apartheid, settler colonialism, and empire in and beyond the United States. We vehemently oppose the preemptive restriction of what can be taught, examined, and researched as part of ethnic studies. Such restrictions risk replicating the very forms of oppression and erasure of knowledge that the field seeks to rectify.

Governor Newsom, in October 2021 you signed into law Assembly Bill 101, which mandated that all California high school students complete an ethnic studies course in order to graduate. Accompanying the bill was a series of guardrails that included the provision that state-approved ethnic studies must “[n]ot reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons on the basis of any category protected by Section 220” of the California Education Code. While laudable in its aim, this guardrail has been weaponized by pro-Israel groups to enact anti-Arab, anti-Palestinian censorship. By restricting the teaching of material related to ethnic studies, these guardrails mirror conservative efforts in states such as Texas and Florida to suppress hard truths about racism and colonialism. In a very real sense, the guardrails are themselves a form of bias, bigotry, and discrimination. California teachers should be able to deliver lessons on important concepts such as settler colonialism, apartheid, and resistance without having to fear censorship or legal action by the state.

Our concerns were further amplified when the Executive Director of the California State Board of Education, Brooks Allen, sent an August 23, 2023 letter to school districts, ominously warning that “some vendors are offering materials that may not meet the requirements of AB 101, particularly the second requirement above, an important guardrail highlighted when the bill was signed.” Nowhere, however, is it made plain precisely what materials are being invoked or the reason for their supposed non-compliance with state law. As such, this letter serves no function other than to scare and intimidate teachers and school districts without providing any actual guidance on how they are to comply with the law.

We do not believe that the state of California should be restricting or censoring teachers when it comes to the teaching of ethnic studies – or any other subject matter. Judgments about what

constitutes an appropriate ethnic studies curriculum should be made by subject matter experts in the discipline, not by lobbyist groups or unelected bureaucrats. If, however, the state does insist on attempting to limit what teachers discuss in their classroom, it must provide clear and concise guidance on what topics, books, or other materials are forbidden from discussion, and it must be transparent as to why certain matters cannot be studied, researched, and discussed. It must further demonstrate how such prohibitions do not represent a violation of the First Amendment or academic freedom.<sup>1</sup>

Additionally, the vague loyalty oath to the state-approved model curriculum<sup>2</sup> required in order to receive the California Department of Education's "Ethnic Studies Certification Affirmation" compels anyone seeking such "certification" to closely replicate that curriculum while spurning the earlier draft, which was jettisoned following a firestorm of controversy because it included Arab American studies content referencing Palestine. Should a district choose to develop its own ethnic studies course in response to local needs, it risks overstepping the guardrails. Yet the guardrails themselves potentially contravene both academic freedom and the First Amendment, and when used to censor content about racialized structural violence, they make a mockery of the animating commitments of ethnic studies as a field. The CDE cannot use the carrot of certification to compel ethnic studies educators to regard excised portions of the model curriculum as pedagogically off-limits just as it cannot use the stick of criminalization to ban educators from teaching the draft model curriculum.

The struggle for equity in K-12 education has been central to advocacy and popular support for ethnic studies in and beyond California. Over the last six decades, historically marginalized and disenfranchised communities of color and Indigenous communities, especially students and youth subjected to structural racism and colonial conditions, have consistently advocated for the inclusion of ethnic studies in public education. Supported by popular, grassroots community efforts rather than highly funded lobbying groups or special interests, ethnic studies is a direct expression of systemically disempowered people's collective will and empowerment, reflecting their demands for the democratization of public schooling.

We are at another crossroads in the history of ethnic studies, where well-resourced lobbyists threaten to undo the gains won by students, educators, and community members who organized for the passage of AB 101. We must be clear:

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<sup>1</sup> Both the text of AB 101 and the governor's signing statement indicate that "it is the intent of the Legislature that local educational agencies not use the portions of the draft model curriculum that were not adopted by the Instructional Quality Commission due to concerns related to bias, bigotry, and discrimination." However, as *The Jewish News of Northern California* [reported](#) in October 2021, "The clause does not specify which portions were cut due to bias concern." Teachers and school districts are thus left to guess what materials the state of California intends to outlaw in its classrooms.

<sup>2</sup> The certification form includes, among others, these prompts aimed at compelling adherence to the revised draft of the Ethnic Studies Model Curriculum: "I affirm that in the creation or expansion of ethnic studies course offerings, I will follow the guidelines set forth in the California State Board of Education adopted Ethnic Studies Model Curriculum. (Type 'Yes')" and "I will ensure that Ethnic Studies courses that I create will not use portions of the draft model curriculum that were not adopted by the California State Board of Education. (Type 'Yes')."

1. Ethnic studies is a scholarly project that researches power by centering the lived experiences of oppressed racialized people of color and indigenous people.
2. Conservative groups and lobbyists, including those linked to "anti-CRT" and anti-African American studies campaigns, are attempting to distort and destroy ethnic studies by mandating eurocentric studies of (white, European) ethnic groups. Ethnic studies is not ethnicity studies, much less a field for the reproduction of dominant or repressive forms of ethnonationalism.<sup>3</sup>
3. The so-called guardrails are a form of censorship and anti-Arab racism and function as ideological policing. Their aim is to exclude Palestinians and Arabs. They deem certain forms of apartheid and segregation worthy of Inclusive educational discussion while censoring and banishing others. Here it is worth noting that the Israeli occupation of Palestinian territories has been deemed an apartheid regime by a growing global consensus, including major human rights organizations.<sup>4</sup>
4. Donor-demanded politics and pressure should not have the power to redefine a 60-plus-year-old academic field rooted in the analysis of race and power.

Educational policy that permits ideologically motivated, repressive guardrails while denouncing book bans is inconsistent, at best. The choice is plain: you either support academic freedom and the democratization of education throughout the state of California, or you do not.

As a council that represents over 300 ethnic studies educators, scholars, and practitioners throughout the UC system, we call on you to ***clearly state what topics and curriculum are being banned and how these bans are not violations of teachers' and students' First Amendment rights, academic freedom, and equal access to an education and curriculum that reflects their lives and histories.***

We await your response.

Sincerely,

UC Ethnic Studies Faculty Council

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<sup>3</sup> To misunderstand ethnic studies in this way is to gut the field's critique of structural violence and to erase its scholarly foundations in and commitments to centering the archives, knowledge, and historical experiences of groups targeted by systemic forms of racism, colonialism, slavery, and racialized warfare.

<sup>4</sup> UN Human Rights Council, "Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967," 21 March 2022, <https://reliefweb.int/report/occupied-palestinian-territory/report-special-rapporteur-situation-human-rights-20>.