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FLUNKED OUT: A COMPARATIVE LOOK AT STATE EDUCATIONAL CODE, TITLE VI OF THE CIVIL RIGHTS ACT, AND SLAVERY EDUCATION

Emory French-Folsom¹ and Maryn Rolfson²

In 2017, a mock slave auction was held in a 5th grade classroom at South Orange Elementary School in New Jersey, which included the ‘sale’ of a black child by white students.³ A few weeks after this incident, students from another elementary school in the same district made posters advertising the sale of African American slaves, which were displayed in school hallways.⁴ Wisconsin 4th graders in 2018 were given a homework assignment which asked them to explain “three good reasons for slavery.”⁵ Members of the Texas Board of Education stood by their social studies curriculum which minimized

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 - 3 Peter Holley, *A teacher allowed white students to ‘sell’ their black classmates in mock slave auction*, THE WASHINGTON POST (Mar. 23, 2017) <https://www.washingtonpost.com/news/education/wp/2017/03/23/a-substitute-teacher-allowed-white-students-to-sell-their-black-classmates-in-mock-slave-auction/>.
 - 4 Nina Pineda, *New Jersey school apologizes over slave auction poster assignment*, ABC7 (March 13, 2017), <https://abc7ny.com/education/school-apologizes-over-slave-auction-poster-assignment/1794818/>.
 - 5 Bret Lemoine, *‘Give 3 good reasons for slavery:’ 4th-grade homework assignment sparks backlash, apology in Wauwatosa*, FOX 6 NOW (Jan. 9, 2018), <https://fox6now.com/2018/01/09/give-3-good-reasons-for-slavery-4th-grade-homework-assignment-sparks-backlash-apology-in-wauwatosa>.

the role of slavery in the Civil War and did not make mention of the Klu Klux Klan.⁶ This final incident occurred in 2015, which commemorates 150 years since the ratification of the 13th amendment. It is evident that the passage of time has not brought a unified stance in the world of education on how slavery is best taught.

There are no federally mandated curricula on slavery education, and state mandated curricula are uncommon. Consequentially, students across the United States learn about slavery in diverse, and at times inadequate, ways. Often provided few guidelines, teachers decide curriculum and assignments that they deem most appropriate. This contributes to giving K-12 students lessons, activities or homework assignments that can subtly or overtly discriminate based on race. Administrators and teachers in every American classroom make choices about the textbooks they buy, the homework assignments they give and the facets of slavery that they focus on. By doing so, they must choose to subscribe to a particular narrative about the history of slavery. States can assist teachers in this difficult task by creating both code and curriculum that will best serve students and educators.

Considering that Title VI of the Civil Rights Act (CRA) of 1964 prohibits discrimination based on race, color, or national origin in programs or activities receiving federal financial assistance, it is in states' best interest to create airtight educational code that ensures compliance with Title VI.⁷ By doing so, states can protect against potential discrimination stemming from selective curriculum, textbook inaccuracy, variable teaching, and administrative practices. These legal changes will give students, parents, teachers, and school districts the tools they need to prevent potential litigation.

In this paper, we will briefly overview the history of federally mandated educational code and the means used to teach slavery, including curriculum, classroom activities, and textbooks. We will

6 Michael S. Williamson, *Texas officials: Schools should teach that slavery was 'side issue' to Civil War*, THE WASHINGTON POST (July 5, 2015) https://www.washingtonpost.com/local/education/150-years-later-schools-are-still-a-battlefield-for-interpreting-civil-war/2015/07/05/e8fbd57e-2001-11e5-bf41-c23f5d3face1_story.html.

7 Title VI, 42 U.S.C. § 2000d et seq (1964).

discuss examples of state code failure resulting in race-related discrimination in the American education system. Next, we will review the merits and pitfalls of California state code. Finally, legal solutions involving the implementation of California state code in other states will be outlined.

I. BACKGROUND

The Tenth Amendment of the Constitution asserts that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”⁸ Historically, this has always included education. While the Department of Education (DOE) has existed since 1867, it was only in 1980 that Congress established the Department as a Cabinet level agency. The DOE contributes roughly eight percent of national school funding, the rest being provided by the states themselves. Because schools are primarily funded on a state-level and it has always been within states’ power to create school curricula, it follows that many feel that federal interference is neither wanted nor warranted. This is in part, according to Historian of Education Diane Ravitch, “because of justifiable fear that a federal agency might threaten to cut off federal funding to states that refuse to accept its mandates.”⁹ Federalism is also a partisan-issue so while some presidents in the past have attempted to create federal educational requirements, all have failed to do so. Therefore, while some may argue that this issue of slavery education and anti-discriminatory educational code should be addressed on a federal level, it simply is not feasible at this point in time.

The Southern outcry against desegregation under *Brown vs Board of Education* was in part due to a perceived encroachment of the federal government on states’ rights to make legislation regarding

8 U.S. CONST. amend. X.

9 Diane Ravitch, *50 States, 50 Standards: The Continuing Need for National Voluntary Standards in Education*, BROOKINGS (June 1, 1996), <https://www.brookings.edu/articles/50-states-50-standards-the-continuing-need-for-national-voluntary-standards-in-education/9/>.

schools. Not surprisingly, federalism of schools or school districts continues to be a hot button topic. This in part explains why the DOE, arguably, has always been a popular political punching bag for Republican politicians who disagree with federalism. Kosar claims that “President Andrew Johnson” who signed the Department of Education Act in 1867, did so reluctantly, “after he had been assured it was harmless. It was a meek agency.”¹⁰ In an article for *The Conversation*, Ph.D. student Dustin Hornbreck explains that “Ronald Reagan advocated to dismantle the department [DOE] while campaigning for his presidency.”¹¹ The 1996 Republican platform was also in favor of eliminating the department saying; “the federal government,” it stated, “has no constitutional authority to be involved in school curricula or to control jobs in the marketplace. This is why we will abolish the Department of Education.”¹²

Last March, Trump attempted to cut the DOE’s budget by 8.5 million dollars, demonstrating that even now the department’s political popularity has not improved. Trump is quoted as saying “a lot of people believe the Department of Education should just be eliminated. Get rid of it. If we don’t eliminate it completely, we certainly need to cut its power and reach.”¹³ The DOE is hotly contested as overstepping state devolved powers. As mentioned previously, if a federal approach to standardized education requirements were possible, it could remedy the problems outlined. However, since the power to change educational standards lies with state governments, state code is the obvious choice for making lasting change. Addition-

10 Kevin Kosar, *Kill the Department of Ed.? It’s been done*, POLITICO (Sept. 23 2015), <https://www.politico.com/agenda/story/2015/09/department-of-education-history-000235>.

11 Dustin Hornebeck, *Federal role in education has a long history*, THE CONVERSATION (April 26, 2017), <https://theconversation.com/federal-role-in-education-has-a-long-history-74807>.

12 Dan Bauman & Brock Read, *A Brief History of GOP Attempts to kill the Education Dept.*, THE CHRONICLE (June 21 2018), <https://www.chronicle.com/article/A-Brief-History-of-GOP/243739>.

13 Jesse Rifkin, *Bill would eliminate the Department of Education after 2018*, Govt. Track Insider (Feb. 22 2017), <https://govtrackinsider.com/bill-would-eliminate-the-department-of-education-after-2018-b1edc714028c>.

ally, because the DOE seems to be in constant peril of being dismantled, it is not feasible for the Department to enforce such legislation.

To demonstrate how federalism in education relates to discrimination, we must revisit the historic *Brown v. Board of Education* case. This demonstrated to the American public that racial unity and integration is a priority in the refinement of our legal system.¹⁴ This case arose out of a desire for the integration of public schools, due to the evidently poorer quality of education offered at African American scholastic institutions. In his opinion statement of the aforementioned case, Justice Warren stated that the Post-Civil War Amendments (13th through 15th inclusive) intended to remove “all legal distinctions among ‘all persons born or naturalized in the United States.’”¹⁵ Title VI works to uphold the egalitarian goal of the Post-Civil War Amendments by protecting all citizens against discrimination. In schools, there must be state code in place to protect students against discrimination.

Title VI was enacted as part of the landmark Civil Rights Act of 1964.¹⁶ It prohibits discrimination on the basis of race, color, and national origin in programs or activities receiving federal financial assistance. President John F. Kennedy said in 1963, “Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.”¹⁷ Today, Title VI protects students K-12 in public schools from a myriad of things, including racial harassment, school segregation, and denial of language services to English learners.

Federal funding, as regulated by the DOE and Title VI, work together on a state level to protect against the aforementioned discrimination. The mission statement of the DOE is “to promote student

14 ABRAHAM L. DAVIS & BARBARA LUCK GRAHAM, *THE SUPREME COURT, RACE, AND CIVIL RIGHTS* (1995).

15 *Brown v. Board of Education*, 347 U.S. 483 (1954).

16 Title VI, 42 U.S.C. § 2000d et seq (1964).

17 The Department of Justice, Title VI of the Civil Rights Act of 1964 (2017), <https://www.justice.gov/crt/fcs/TitleVI>.

achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.”¹⁸ To receive funding, schools must also strive for “equal access.” If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action. Aggrieved individuals may file administrative complaints with the federal agency that provides funds to a recipient, in this case, the DOE, or the individuals may file suit for appropriate relief in federal court. Title VI itself prohibits intentional discrimination. It must be acknowledged that even with every law in place to prevent discrimination, there will always be ignorance on the part of teachers, administrators and governing officials. This does not mean these laws are unnecessary, but rather some may still be unaware of what Title VI actually means. The Office for Civil Rights in the DOE is responsible for enforcing Title VI as it applies to programs and activities funded by federal funds.

Educational institutions receive federal funding; however, state codes and curriculum are determined autonomously state by state. Individual teachers each approach state-mandated curricula by creating lesson plans; however, admittedly with their own biases. Additionally, racial discrimination among students is an ongoing problem, which can exacerbate insensitive teaching practices.¹⁹ Colleges have Title IX to protect students from racial discrimination, but K-12 schools depend on both the DOE to enforce Title VI and state legislators to enforce individual state codes.

18 U.S. DEPARTMENT OF EDUCATION, <https://www2.ed.gov/about/landing.jhtml> (last visited February 6, 2020).

19 *Monteiro v. Tempe Union High Sch. Dist.* 158 F.3d 1022, 97-15511 (9th Cir. 1998).

II. PROOF OF CLAIM

A. Curriculum

Teaching Hard History, a chapter of the Southern Poverty Law Center (SPLC), states that “most students leave high school without an adequate understanding of the role slavery played in the development of the United States—or how its legacies still influence us today.”²⁰ According to the SPLC, 8% of high school seniors surveyed identified slavery as the primary cause of the Civil War.²¹ Additionally, two-thirds of students surveyed do not know that slavery did not end until a constitutional amendment was ratified, and less than 1 in 4 students can properly identify the slavery-supportive provisions in the original Constitution. Not only do the students lack basic knowledge about slavery, the Constitution and the Civil War, but 40% of teachers believe that their state provides “insufficient support for teaching about slavery.”²² Student knowledge can in part be attributed to a lack of state-mandated resources for slavery education in public schools.

Curriculum that covers the breadth and depth of American history is necessary in order to adequately inform students. Slavery is directly addressed in history, government, and geography classes; however, racial and historical bias must be controlled for in all classrooms. The economic and literary history of the United States were also impacted by the plantation system.²³ For example, an economics teacher might acknowledge the implications of slavery in a capitalist system, as seen in 18th century America. Classrooms of all subjects

20 Kate Shuster, *Teaching Hard History*, SOUTHERN POVERTY LAW CENTER, 2018.

21 *Id.* at 9.

22 *Id.* at 10.

23 Matthew Desmond, *In order to understand the brutality of American capitalism, you have to start on the plantation*, NEW YORK TIMES (Aug. 14 2019). <https://www.nytimes.com/interactive/2019/08/14/magazine/slavery-capitalism.html>

should be sensitive to the impact that curriculum choices have on the holistic student understanding of slavery and historic race relations.

In *Grimes By & Through Grimes v. Sobol*, several New Yorker parents and teachers came forward seeking a curriculum that more fully recognizes the contributions of Africans and African Americans. The plaintiffs explained that they sought legal redress because “they have no place else to go where they can find relief... [N]early everyone else who can bring about change in the education system is worried about a job or a vote.”²⁴ They allege that the New York curriculum as it stood had “a disparate impact on African Americans’ self-esteem and ability to learn.”²⁵ This is claimed based on the alleged discriminatory nature of the curriculum as outlined by Title VI. Instead, the plaintiffs sought a revised curriculum to be produced by the defendants that outlined historically accurate contributions of African Americans and other people of color. The defendants maintained the claim that the state statutes relied upon by the plaintiffs were not grounds for legal recompense, and that the claims did not meet the standard for Title VI violation. This defense was upheld by the courts, and the claims were dismissed. It is clear that when state educational code does not provide a vehicle by which students, parents, and educators can seek reform and retribution for discrimination within the education system, the federal system is often insufficient to provide same due to the high standard of discrimination as defined by Title VI. While states should implement airtight educational code based on the existence of this discrepancy alone, the potential for removal of federal funding if a case were to show violation of Title VI should also motivate states to bridge this gap.

Acosta v. Huppenthal also demonstrates this chasm between inadequate state educational code and the reach of federal power.²⁶

24 *Grimes By & Through Grimes v. Sobol*, 832 F. Supp. 704, 706–07 (S.D.N.Y. 1993), *aff’d*, 37 F.3d 857 (2d Cir. 1994).

25 *See Grimes By & Through Grimes v. Sobol*, 832 F.

26 *Acosta v. Huppenthal*, No. CV 10-623-TUC-AWT, 2013 WL 871892, at *1 (D. Ariz. Mar. 8, 2013), judgment entered, No. CV 10-623-TUC-AWT, 2013 WL 871948 (D. Ariz. Mar. 8, 2013), and *aff’d* in part, *rev’d* in part and remanded *sub nom.* *Arce v. Douglas*, 793 F.3d 968 (9th Cir. 2015).

In this Arizona case, plaintiffs brought forth action against several state officials, seeking to challenge the constitutionality of a state statute that limits the school districts' race-related curricula.²⁷ Their motion was denied, with one exception. In the judicial opinion, the judge states,

“The Court’s rulings stem in large part from the considerable deference that federal courts owe to the State’s authority to regulate public school education. The Court recognizes that, in certain instances, Defendants’ actions may be seen as evincing a misunderstanding of the purpose and value of ethnic studies courses. Equally problematic is evidence suggesting an insensitivity to the challenges faced by minority communities in the United States. Nevertheless, these concerns do not meet the high threshold needed to establish a constitutional violation, with one exception. Instead, they are issues that must be left to the State of Arizona and its citizens to address through the democratic process.”²⁸

The court is clearly of the opinion that protecting against discrimination in the classroom, and thus upholding Title VI, falls into state jurisdiction. It is in the state’s interest to implement code that will close the gap identified in the judicial opinion, which is that the challenges faced by minority communities must be extremely severe in order to meet the federal bar of constitutional violation. State code must protect against discrimination that does not reach this standard, but nonetheless injures minority groups. Furthermore, it is in the state’s best interest to protect against all discrimination that may violate Title VI in order to maintain their federal funding based on same.

B. Classroom Activities

The idea that racial tensions persist in American schools today is supported by many events in the last decade. A racial slur is spray painted in a middle-school Wisconsin bathroom, parents in Minnesota

27 Arizona Revised Statute § 15–112.

28 See *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d.

sue a lily-white school district for not protecting their children from racism.²⁹ No part of the country, it seems, is immune from racial tensions but schools have a legal responsibility to protect students from racial discrimination. These incidents always result in parental outrage and yet they persist year after year. Teaching slavery is always an incendiary topic, so it is perplexing that neither on a state or federal level are teachers given a strict curriculum to avoid further incidents or even potential lawsuits.

Consider the previously cited instances of attempt at teaching slavery gone awry, including the mock slave auction and the classroom assignment to identify “three good reasons for slavery.”³⁰ Title VI protects all Americans from racial discrimination. However, the scope and specificity of this protection is limited, and may not be prosecutable in the case of discriminatory classroom activities or homework assignments. Thus, the onus to provide specific protection from racial discrimination in classroom activities falls on the state.

In the case of *Monteiro v. Tempe Union High Sch. Dist.* in Tempe, Arizona, the parents of an African American student filed suit on her behalf against the school district.³¹ They claimed that they had violated the student’s rights under the Equal Protection Clause and Title VI by requiring reading materials that contained the repeated use of racially derogatory terminology.³² The literature in question included “The Adventures of Huckleberry Finn” by Mark Twain and “A Rose for Emily” by William Faulkner; both works frequent

29 Stephanie Fryer, *Police investigating racist slur found on bathroom at Mayville Middle School*, CHANNEL 3000, May 17 2000; Dara Sharif, *Parents Sue Minnesota School District Saying It Did Nothing to Protect Their Kids From Rampant Racism*, THE ROOT, April 5 2019.

30 Peter Holley, *A teacher allowed white students to ‘sell’ their black classmates in mock slave auction*, THE WASHINGTON POST (Mar. 23, 2017); Bret Lemoine, *‘Give 3 good reasons for slavery:’ 4th-grade homework assignment sparks backlash, apology in Wauwatosa*, FOX 6 NOW (Jan. 9, 2018), <https://fox6now.com/2018/01/09/give-3-good-reasons-for-slavery-4th-grade-homework-assignment-sparks-backlash-apology-in-wauwatosa>.

31 See *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d.

32 *Id.*

the use of the term ‘n*gger.’³³ According to the American Library Association, “The Adventures of Huckleberry Finn” is both one of the nation’s most beloved and most banned books.³⁴ Kathy Monteiro, the mother of the plaintiff, argued that not only were these works adjunct to Freshman English curriculum, but that the exclusion of any literature using derogatory language that was aimed at races other than African Americans demonstrated racial bias. Monteiro expressed allegations of psychological distress and a hostile racial environment as a direct result of classroom readings and discussions of said literature. This included the loss of educational opportunities, as the only alternative to studying the literature was to be absent from class. In concurrence with the study of the literature, Monteiro alleged that use of this derogatory term in the school increased dramatically. She claimed that instance of verbal discrimination and derogatory graffiti increased after her daughter’s class studied these literary works.³⁵ She also claimed that the school board was made aware of these discriminatory instances; however, no action was taken. On the basis of threat to the First Amendment, the courts reserved the school board’s right to select reading materials. However, the second claim that the school district failed to adequately address this racial harassment under Title VI was upheld. The first claim, which sought a mandate for curriculum sensitive to some classic literature’s potential to be racially discriminatory, was dismissed because Arizona state code did not outline provisions to explicitly uphold Title VI in the classroom, while protecting the state’s right to curriculum choice in education.

33 *Id.*; MARK TWAIN, ADVENTURES OF HUCKLEBERRY FINN (SDE Classics 2019) (1884); WILLIAM FAULKNER, A ROSE FOR EMILY AND OTHER STORIES (Random House 2012) (1930).

34 AMERICAN LIBRARY ASSOCIATION, <http://www.ala.org/advocacy/bbooks/100-most-frequently-challenged-books-1990-1999> (last visited on February 6, 2020).

35 *See Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d.

C. Textbooks

A textbook used by a Texas public charter school chain in the 2000s taught: “While there were cruel masters who maimed or even killed their slaves (although killing and maiming were against the law in every state), there were also kind and generous owners ... Many [enslaved people] may not have even been terribly unhappy with their lot, for they knew no other.”³⁶ The Southern Poverty Law Center reports that fifty-eight percent of teachers find their textbooks inadequate.³⁷ Hevin Robertson reviewed three textbooks, one each from McGraw-Hill, McDougal Littell (owned by Houghton Mifflin Company), and Prentice Hall (owned by Pearson Plc.). These textbook companies are the largest academic publishers in the United States. The Prentice Hall textbook claims that “during the 1780s, Thomas Jefferson, James Madison, and George Washington hoped that slavery would gradually fade away” while not acknowledging that all three owned slaves, neither providing a historical basis for this claim. McDougal Littell calls slaves “workers” in their textbook and McGraw-Hill calls them “planters.” These instances point towards a larger problem; considering that historical biases exist in textbooks, how could this not permeate in classrooms?³⁸

Textbook content can be addressed in state code. California educational code states, “the state board and any governing board shall not adopt any textbooks or other instructional materials for use in the public schools that contain any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, or because of a characteristic listed

36 Annabelle Timsit & Annalisa Merelli, *For 10 years, students in Texas have used a history textbook that says not all slaves were unhappy*, QUARTZ, May 11 2018.

37 Kate Shuster, *Teaching Hard History*, SOUTHERN POVERTY LAW CENTER, 2018 at 9.

38 Robertson, Hevin N., “Taking Offense: An Exploration of Racist, Misleading, and Problematic Language in Textbooks” (2018). Honors Senior Theses/Projects. 181. https://digitalcommons.wou.edu/honors_theses/181

in Section 220.”³⁹ The specificity of this code also protects future K-12 students by preventing state and governing boards from adopting discriminatory textbooks. In this way, the California state code protect students from possible changing ideology in the future or differing political climates by defining what human characteristics are protected.

III. CALIFORNIA STATE CODE

Many states adopt Title VI into their own state codes and statutes to be the primary enforcers of this legislation. Federal funding is at risk for non-compliance and it is in a state’s best interest to make very specific educational codes to prevent racial discrimination, segregation or faculty misconduct. For example, Arkansas outlines that:

“It shall be unlawful for any member of the board of directors, administrator, or employee of a public school to knowingly authorize the participation of students in an event or activity held at a location where some students would be excluded or not given equal treatment because of the student’s race, national origin, or ethnic background”⁴⁰

This code outlines that even extracurricular activities cannot have discrimination. While Title VI is broader in its legal implications of discrimination, occasionally states will use a more specific code, to ensure compliance. The clearer a code can be, the more legal protection against discrimination for students, and hopefully, the more likely a state’s schools are to continue to receive federal assistance.

California is a great example of a state who leaves no stone unturned when it comes to protecting K-12 students from racial discrimination. For example, in California’s state code it expresses that

“it is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or

39 EDC § 51501.

40 Arkansas Code Title 6. Education § 6-10-114. Discrimination—Punishment.

ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.³⁴¹

This law goes into even more detail of what happens when this code is broken, how to rectify and prevent further discrimination. While other states have similar codes to this, California specifically addresses the classroom and classroom activities in code, “a teacher shall not give instruction and a school district shall not sponsor any activity that promotes a discriminatory bias on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation, or because of a characteristic listed in Section 220.”³⁴² Again, teachers are fallible humans who often might not even be aware of discriminatory actions. Yet, it is still vital that states mandate through educational codes what exactly students are protected from so that individual school districts and schools must comply. The more specific a code-- the more protected a student.

Some may argue that California is also not immune from instances of discrimination in the classroom. Only last December in Palmdale, California did students report a teacher for saying Mexicans should “go back to their country” and we should “bring back slavery.”³⁴³ However, Palmdale Assistant Superintendent put the teacher on leave saying “regardless of whether it was a joke or not, comments are comments, and racial comments are unacceptable in any way, shape or form” and he is well within California state educational code to fire this teacher for misconduct. While state code

41 California Code, Education Code - EDC § 200.

42 California Code, Education Code - EDC § 51500.

43 Alejandra Reyes-Velarde, *Teacher accused of saying she wants to ‘bring back slavery’ placed on leave, again*, LOS ANGELES TIMES (Dec. 20, 2019), <https://www.latimes.com/california/story/2019-12-20/teacher-accused-of-saying-she-wants-to-bring-back-slavery-placed-on-leave-again>.

may not prevent further incidents, it does create the ability for legal recourse for when these incidents occur.

IV. CONCLUSION

States have a legal obligation to write and enforce educational codes that protect students from racial discrimination in the classroom. As society progresses and previously unheard history is made increasingly available to all, schools will need to update both code and curriculum. If states choose to ignore this issue because it is politicized or for any other reason, they will then be vulnerable to future litigation. By adopting the specific educational codes of California, states and school districts will leave little for the imagination when it comes to curricula, classroom conduct, and textbooks. While acknowledging that teachers are individuals who will continue to make mistakes, it is still important for state legislators to protect students as much as they can.