

Submitted via email to: [sbe@k12.wa.us](mailto:sbe@k12.wa.us)



September 20, 2024

Washington State Board of Education (SBE)  
PO Box 42706  
Olympia, WA 98504-7206

Re: *Comment & Position Statement of FAIR Washington on K-12 Ethnic Studies*

Dear SBE Members,

On August 13, we submitted a brief comment relating to the ethnic studies session planned for your meeting on August 14. In our comment, we stated that we would submit a longer comment to explain our position more fully in the near future. During your meeting on September 5, you also discussed SBE's ongoing support of ethnic studies. In response to the ethnic studies sessions at both SBE meetings, we now submit this comment, together with the attached position statement, to describe in more detail why your current, "liberated" formulation, K-12 ethnic studies violates Article IX of our state constitution.

***We ask that SBE review this comment and position statement with the attorney general's office, to seek advice on whether the embrace of liberated ethnic studies in K-12 public schools could be subject to legal challenge on the grounds stated herein.***

The issues are whether Washington's K-12 public schools can be redesigned for the benefit of any group where a "distinction" or a "preference" is made based on "race, color, caste, or sex." Equally important is whether the education provided by our public schools can be infused with "liberated" concepts that are inherently sectarian in their essential nature.

SBE may believe that teaching liberated ethnic studies is of value to our society, or that opposition to it is based on "hypotheticals," as some members noted during the September 5 meeting. We respectfully disagree. We believe the primary purpose of K-12 education is to give students the core academic skills they will need to succeed in life, as well as the objective, critical thinking skills they will use once their school years are behind them. In so doing, students should never be divided according to race, ethnicity, or skin color, or have traits and characteristics attributed to them on that basis. Students should also not be taught that their membership in groups based on immutable characteristics will play a determinative role in their future lives.

We acknowledge that SBE has often emphasized that in its view, ethnic studies is "not indoctrination."<sup>1</sup> But if the subject is designed mainly to focus on "decolonizing" education and society, and "dismantling white supremacy" based on "liberated" concepts, and it is "not a particular course, curriculum, lesson, or unit plan," that makes the teaching of it a sectarian influence in K-12 instruction. This influence has no obvious connection with the intent of the legislature when it passed ethnic studies legislation in 2019 (SSB 5023) and 2020 (SB 6066).

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<sup>1</sup> SBE Report - Alignment of Graduation Requirements with the Profile of a Graduate (2022), p. 24.

The differences in our respective positions may be understood by referring to the two footnote citations made in SBE's March 2021 "Resolution of Intent" on ethnic studies as a graduation requirement. One, on "structural racism ... in our education system," cites a report that uses the word "structural" only to refer to "systemic inequity" that "structurally disadvantages certain demographics of students." The other, identifying "anti-racism" as a "primary goal" of ethnic studies, says nothing at all about the legislature's clear intent, which was for Washington K-12 students to learn how to become "global citizens in a global society."

We agree that opportunity gaps exist between "certain demographics of students." SBE has clearly been deeply engaged in addressing these gaps over many years. A recent example is SBE's issuance of RFP No. 2024-14, for "DEIB" Training. But while we support prioritizing educational equity as a statewide policy initiative, that is not what liberated ethnic studies in our state is about. Rather, it is meant to influence how K-12 students should think about racism, at all grade levels and across all subject areas. At its core and from the ground up, that makes it intrinsically ideological, based on a purported "true ethnic studies which is anti-imperialist, which is anti-capitalist, which is anti-zionist."<sup>2</sup>

FAIR Washington - along with other groups and many state residents - has long expressed concerns over SBE's direction for K-12 ethnic studies. We have raised issues on several occasions about its "liberated" nature, but they have been met largely with puzzlement or indifference. But we must again point out that K-12 education cannot be redesigned around, or on behalf of, or for the express benefit of, any group, where a "distinction" or a "preference" is placed on race, color, caste, or sex. Even if SBE considers K-12 ethnic studies to be focused on antiracism over and above global citizenship, or that it is meant to drive societal change, the subject cannot be based on "liberated" concepts that make it sectarian, as that also makes it unconstitutional.

We therefore again ask SBE to consider the consequences of pursuing what has clearly been its preferred view of K-12 ethnic studies since lawmakers first turned their attention to this subject, and whether this approach can be reconciled with legal and constitutional requirements.

Respectfully,

*Sharon Brown*

Sharon Brown, on behalf of FAIR Washington

Attachment (Position Statement)

cc: Matt Schultz, Chief Legal & Civil Rights Officer, OSPI (via email to: [matt.schultz@k12.wa.us](mailto:matt.schultz@k12.wa.us))  
Sen. Jesse Salomon (via email to: [jesse.salomon@leg.wa.gov](mailto:jesse.salomon@leg.wa.gov))  
Sen. Lisa Wellman (via email to: [lisa.wellman@leg.wa.gov](mailto:lisa.wellman@leg.wa.gov))  
Office of the Attorney General - Education (via form at: <https://www.atg.wa.gov/education>)

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<sup>2</sup> Lupe Cardona, cofounder of Liberated Ethnic Studies Model Curriculum Coalition, at 39 minutes, in a video on Facebook, posted 12/14/2023. See: <https://www.facebook.com/udblosangeles/videos/1130263771293182>.



**K-12 LIBERATED ETHNIC STUDIES IN WASHINGTON  
URGENTLY REQUIRES PUBLIC RECONSIDERATION**

SEPTEMBER 20, 2024

*The teaching of “liberated” concepts throughout K-12 education by means of ethnic studies is contrary to Washington’s constitution, which requires that public schools “shall be forever free” from sectarian influence, and that our state “shall make ample provision” for public education “without distinction or preference on account of race, color, caste, or sex.” Before such concepts become prevalent in our schools, our State Board of Education (SBE) and other agencies should recognize that they are not called for by legislation, not susceptible to learning standards, and not permissible under constitutional safeguards that protect all state residents.*

I. OVERVIEW

1. “Liberated” ethnic studies is starting to impact *all* subjects at *all* levels in *all* of Washington K-12 public schools. We again raise our concerns regarding this pedagogy because as another school year begins, it is becoming increasingly prevalent, causing Washingtonians to face the prospect that public K-12 education will no longer remain free of sectarian influence — yet *with* unconstitutional distinctions among students “on account of race.”
2. SBE has continually championed this “liberated” pedagogy since 2020, but its 2024-28 strategic plan makes no direct mention of it. Yet if SBE — and school districts acting with SBE’s encouragement — cause our state’s program of basic education to become infused with these ideological concepts that alter the fundamental nature of our schools, this must be challenged. It is a sweeping and unconstitutional change in the basic tenor of K-12 public education.
3. SBE may assert that it is acting consistent with legislative authority by helping define and encourage ethnic studies, but it has never explained why it must be centered on tendentious notions of “liberation,” “decolonization,” “white supremacy” and related ideological concepts. Based on the two bills reviewed in this position statement, its approach is deeply misguided. No authority was ever granted for this ideology to have pervasive influence across K-12 instruction, particularly without clear learning standards and no processes in place for appropriate safeguards.
4. Public concerns have been repeatedly raised about SBE’s unwavering support of liberated ethnic studies, but it has steadfastly refused to consider them. Instead, as recently as two weeks ago, its members dismissed such concerns as “hypothetical,” indicating they remain determined to see “liberated” concepts implanted in our schools. By so doing, our public education system is at risk of systemic and irreversible harm. State lawmakers never expressed any intention to implant any sectarian ideology in our schools by means of ethnic studies legislation. The fact that SBE — and those school districts following its lead — continue to believe that they did, in disregard of ongoing public opposition, demands prompt resolution, by legal or other appropriate means.
5. Educational instruction on — and express or implied endorsement of — concepts, ideas and jargon associated with any sectarian ideology, irrespective of whether it reflects the “social justice”

left or the “MAGA patriot” right, goes against everything K-12 education is about. Our schools must ensure that students are taught diverse viewpoints in social studies and other subjects, so that they can then determine on their own which they choose to embrace as “global citizens.”

## II. FACTUAL BACKGROUND

6. In 2019, Washington’s state legislature passed SSB 5023, authorizing development of ethnic studies curriculum materials and educator resources for grades 7-12. This bill was a companion to one proposed by Rep. Ortiz-Self; a second bill, sponsored by Sen. Hasegawa, extended ethnic studies to grades K-6 in 2020 (SB 6066). In neither bill (collectively, the “ES legislation”) was the precise meaning or scope of ethnic studies, as a K-12 subject, specifically defined. Rather, it was simply described as intended to help students learn how to become better “global citizens.”
7. Ethnic studies as thus presented was a way to advance our state’s program of basic education under RCW Ch 28A.150.210 which includes the goal of students becoming “responsible and respectful global citizens.” SSB 5023’s title, “Global citizens in a global society” (RCW 28A.655.300), makes this clear, as does Sec. 1 of SB 6066 (RCW 28A.300.112). In Sec. 3, however, SB 6066 directed that an existing OSPI “Ethnic Studies Advisory Committee” (ESAC), composed of “a majority of educators with experience in teaching” the subject, advise on the creation of materials that would meet *existing* learning standards and requirements. SB 6066 thus assigned the ESAC, under OSPI’s supervision, the role of providing OSPI with its understanding of the subject. But it did not give the ESAC, OSPI or any other state agency the authority to modify standards, as the subject was to be developed in a way that called for it to be taught within the framework of existing learning standards and requirements.
8. As the legislature deliberated on SB 6066, OSPI’s liaison to the ESAC assured lawmakers that ethnic studies would be conceptualized to support “inclusive, equitable and culturally responsive” teaching, consistent with current standards. As a result of the ESAC’s process, however, the subject now features concepts and ideas never before covered by standards — in particular, “engag[ing] our critical consciousness to empower *collective action for change*” and “how are my understandings of history, identity, and civic action rooted in an *analysis of power*.” However, in the “Social Studies Standard” learnings identified by OSPI in support of the ESAC’s work for all grades levels (K-2; 3-5; 6-8; and 9-12), not once is either phrase used or referenced in the “suggested components” of instruction, or “sample compelling questions” that could be addressed in curriculum instruction or materials. Thus, even though OSPI identified “Civic Action” and “Power” as two of the four “domains” of the “ethnic studies framework” formulated by the ESAC, it simply failed to identify any standards that are clearly applicable to either of them.
9. This outcome was directly contrary to a concern raised during the hearing on SB 6066 in January 2020. When Sen. Salomon asked if new standards would be required by the bill, he was told no, as OSPI’s existing standards, “in a variety of topics or subject areas” would cover “knowledge on this topic.” However, for the concepts of “collective action” and “analysis of power,” learning standards or requirements have never been specified. Without any mechanism for reviewing these “liberated” elements of ethnic studies, there is no way to ensure that such concepts are taught, as Sen. Hasegawa assured lawmakers, in a way that does not “do more harm than good.”

**POSITION STATEMENT BY FAIR WASHINGTON**  
The Statewide Chapter of FAIR, The Foundation Against Intolerance & Racism

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10. Just as problematically, the formulation of these two ethnic studies “domains” — “Civic Action” or “Power” — was not even remotely contemplated by the language of the ES legislation, which relates only to “responsible and respectful global citizens.” Yet even before the ESAC finished its work, these “domains” had already received SBE’s unqualified support in a March 2021 “resolution of intent,” by which it approved making them a graduation requirement, with an implementation plan to be completed by the end of 2021. Three years later, several school districts are now acting on SBE’s encouragement that they use these ideological concepts, as developed by the ESAC’s “majority of educators” in their “framework” document (“ESF”), yet neither SSB 5023 nor SB 6066 ever specified or even alluded to any of these concepts at all.
11. The ESF calls on ethnic studies educators to be “anti-racist practitioners” and describes students as obtaining from the subject an opportunity to “engage with critical, anti-racist content.” While a model ethnic studies curriculum was never developed, apparently due to concerns that attempting to do so could become too contentious, this primary focus on teaching anti-racism, combined with SBE’s ongoing resolution of intent, are already having far-reaching impacts.
12. Upon issuance of the ESF, the ESAC was dissolved even though SB 6066 did not require that step and the ESF itself indicated that it would continue its work through the first half of 2022. Regardless, SBE’s resolution of intent and the ESF have now combined to define our state’s approach to K-12 ethnic studies, all while these ideological concepts lack explicit standards (as none are discernible from OSPI’s “Crosswalk,” in Appendix A to the ESF), or any clear connection to how they will help ensure that students will thereby learn how to be better “global citizens.”
13. After SB 6066 was signed into law, Senator Hasegawa released a statement noting that ethnic studies would now be in place “as our kids move through the K-12 system.” It said the ES legislation was “a step toward equity in our education system.” But as proponents of liberated ethnic studies often make clear, they view this subject as not being about educational equity at all. Rather, it is about “antiracism,” “white supremacy” and “decolonizing” education and society.

### III. SECTARIAN INFLUENCES

*While never identified or expressed as the intent of the ES legislation, sectarian influences are now being implanted within and across all K-12 subjects and grades through ethnic studies curriculum and educator training resources, in violation of Art. IX, Sec. 4 of Washington’s state constitution.*

14. The bill histories of both SSB 5023 and SB 6066 are bereft of references to “antiracism” or its centrality to ethnic studies. That idea is entirely due to the work of the “majority of educators” who were appointed to the ESAC, with SBE’s involvement. Lawmakers expressed no desire or intention for ethnic studies to be focused on antiracism. True, SB 6066’s sponsor, Sen. Hasegawa, advised lawmakers of a need for ethnic studies “to incorporate some analysis of systems of oppression and power relationships” and that on the “professional development side,” teachers would need to know how to teach it “the right way,” so they did not “do more harm than good.” But if learning about “systems of oppression and power relationships,” which might *not* be taught the “right way,” was so essential, why was this not made clear in the ES legislation?
15. When premised on and imbued with “liberated” concepts, ethnic studies is sectarian doctrine, based upon a supposed urgent need to “dismantle white supremacy” as its organizing principle. Along

with supporting conceptualizations of “antiracism,” “whiteness,” “BIPOC” and “decolonization,” ethnic studies is a secular ideology. The world is envisioned as engulfed in a perpetual conflict between two groups: one that uses its “whiteness” to perpetuate racism; the other, consisting of BIPOC and their white allies, who seek to use “antiracism” to “decolonize” schools and society.

16. Addressing racism can be considered in modifying education-related statutes or governmental practices. For example, “antiracism” is mentioned in ESSB 5044 (2021) as justifying reforms in cultural competency training for K-12 “instructional staff,” but that is unrelated to teaching it to students through standards-based curriculum. Also, in 2022, Gov. Inslee issued an executive order mandating the creation of “Pro-Equity Anti-Racism (PEAR)” plans, but that too has nothing to do with public school curriculum, for which the legislature is solely responsible (Art. IX, Sec. 2). These examples are still of interest because they illustrate that if teaching antiracism and associated “liberated” concepts in K-12 schools was indeed the intent of lawmakers, that should have been made clear in the text of the ES legislation, but it is not there at all.
17. Our legislature never directed that K-12 ethnic studies be imbued with “liberated” concepts. Rather, private individuals and entities have sought this outcome, with the apparent support and encouragement of SBE and OSPI. But if ethnic studies was considered by the legislature to strengthen how students are taught how to become “global citizens,” why are state agencies now so focused on turning ethnic studies into a way of teaching students how to be “antiracists”?

#### IV. LACK OF AGENCY OVERSIGHT

*While ethnic studies are now infused with “liberated” concepts, learning standards for such concepts have effectively been placed in the hands of private individuals and non-governmental entities.*

18. During the hearing on SB 6066, a legislative committee staff member noted that SB 6066 “amended” SSB 5023 in three ways. First, ethnic studies was extended to all grades, including K-6. Second, an existing advisory committee would be tasked with advising OSPI on the nature of ethnic studies. And third, OSPI would ensure that its teaching of how students could be better “global citizens in a global society, with an appreciation for the contributions of diverse cultures” would align with current standards. New or separate standards would not be needed.
19. Notwithstanding the third change, OSPI has never identified standards for the “liberated” concepts now embedded in the conceptualization of ethnic studies, as reflected by SBE’s resolution of intent and the ESF. Instead, OSPI’s existing standards say nothing about how “systems of oppression and power relationships” should be taught through ethnic studies. But the need for standards on this aspect of the subject was clearly highlighted at the SB 6066 hearing, where one educator stated that by “starting in kindergarten and lacing it through twelfth grade,” ethnic studies might help cure “ills created in a white supremacy culture” and thereby help “dismantle a system that has valued presentation of certain facts while leaving out whole sections of history.”
20. The ESF envisions ethnic studies as being about antiracism, using the term four times. Apart from quoting from Paulo Friere’s “Pedagogy of the Oppressed,” on how students can “discover how to participate in the transformation of their world,” the real goal (from the same source) is this: to “contribute to the formation of a new man and mark the beginning of a new era in Western history.” If that is covered by existing learning standards, we admit to being unaware.

21. In sum, the ESF focuses ethnic studies on an ideology based on “an analysis of power”; on how to “support and engage” students to “analyze and evaluate claims”; and how to engage “critical consciousness to empower collective action for change.” Without any connection to standards, yet with a clear intentionality to convey politicized views through K-12 curriculum, state agencies are now helping disseminate sectarian influences throughout all grades and in all subject areas of K-12 public education. This unconstitutional change is unacceptable to most Washingtonians.

## V. FURTHER CONSIDERATIONS

22. Our schools must be “forever free from sectarian control or influence.” While this rule has most often been considered in the context of religious denominations, any movement that promotes adherence to a specific political, ethnic or religious cause — which stands in direct opposition to other causes — must be understood as sectarian. The answer to ‘sectarian or not?’, whether with reference to the Bible or any other book or doctrine, is therefore a legal issue. Moreover, broad arguments applied to religion also apply to questions involving race in terms of possible favoritism that may cause psychological injury to students and families who adhere to other views, resulting in stigma, affront to conscience, and interference with parental/guardian rights.
23. Liberated ethnic studies is sectarian because it is based on an ideological conceptualization of “oppressor vs. oppressed” groups engaged in perpetual conflict unless “antiracism” can somehow be applied to “disrupt” it. Rigid group distinctions based on race or ethnicity — just as those based on class or religion — meet the three key characteristics of sectarianism: viewing all who oppose them as alien and adversarial; a categorical rejection of all competing ideas; and moralizing that all opponents must be defeated for their survival. Teaching this worldview in our public schools is unconstitutional even though it is protected by free speech rights in public life.
24. In our state, a public agency or instrumentality may be tasked with fulfilling aspects of legislation. In SB 6066, the ESAC’s role was to “make recommendations” to OSPI, but OSPI retained control over learning standards for ethnic studies. However, its standards do not cover the ideological concepts embodied in the ESF and encouraged by SBE. In response to these powerful influences, school districts and schools are now in the process of developing curriculum that includes “liberated” concepts – but without any identifiable standards. This has turned the ES legislation into a “trojan horse” for implanting sectarian influences into K-12 public schools.

## VI. CLOSING THOUGHTS

25. In our view, whatever standards are applicable to the ideological concepts of ethnic studies are now effectively under the control of private individuals and non-governmental entities. With state agencies failing to redress the public’s deep concerns, its representatives must have legal recourse to ensure that such ideas and concepts — because they amount to sectarian influences — are removed from ethnic studies, to uphold state constitutional requirements. The public also has a broad and inherent right to be assured that all K-12 public schools provide education without distinction or preference “on account of race” and are subject to learning standards. SBE, OSPI and all school districts must be responsive when public concerns regarding deviation from these constitutional requirements are brought to light, and to adjust direction accordingly.