

September 27, 2021

Mr. Bruce Devlin
Chairman, Board of Education
Mr. Brian Czapla
Superintendent
Somers Public Schools
bruce.devlin@somers.k12.ct.us
brian.czapla@somers.k12.ct.us



Sent Via Email

Dear Messrs. Devlin and Czapla:

I am an attorney at the Foundation Against Intolerance & Racism (FAIR), a nonpartisan organization dedicated to advancing civil rights and liberties rooted in our common humanity. We have more than 70 chapters nationwide and tens of thousands of members, including in Connecticut. FAIR's advisory board includes John McWhorter, Ayaan Hirsi Ali, Steven Pinker, Bari Weiss, and others similarly dedicated to our mission. Our website, fairforall.org, can give you a fuller sense of our identity and activities.

We write in response to an incident report submitted to FAIR on September 16 through our transparency website, fairtransparency.org, regarding Somers Public Schools (SPS). This report states, in pertinent part:

A member of the Somers BOE pointed out during a public meeting the potential liability to the town of Somers School District that the current professional development is [*sic*] poses. The training violates the board's own adopted policies, as well as state and federal discriminatory and civil rights laws As the professional development is implemented in [the] classroom it seems inevitable that the application of the training provided by the District will also violate the non partisan code covered in DBS Code 6144 Please alert the District of its illegal actions to avoid disastrous financial costs to the town of Somers, CT.

The report attaches the Board of Education's May 10 "Administrative Report," setting forth SPS's approach regarding teacher training and student curriculum. According to that document, racial group identity will be emphasized throughout training and the curriculum. Staff and students will be required to have an "awareness" of their "racial and cultural identity" and to be "conscious of race." Staff will participate in book clubs, for which virtually all books under consideration are premised on the view that skin color is central to one's identity. Of those that discuss outcome disparities, all proposed books take the view that such disparities are caused entirely by systemic racism. The Administrative Report also states that "courageous conversations" will take place throughout the SPS community. As you may know, Courageous Conversations is a signature program of Pacific Educational Group.

Those concepts will also be embedded in the curriculum, utilizing the Social Justice Standards Framework from Learning for Justice. Under that Framework, students in all grades (including

kindergarten) will be required to view themselves as members of “identity groups.” Students will be compelled to “affirm” their identity group membership and to recognize “traits” of the “dominant culture” as well as the “traits” of other cultures and skin colors. The Framework teaches students to know their “main identity groups,” which suggests that students must rank and order their various group memberships. Students will also be charged with “plan[ing] and carry[ing] out collective action against bias and injustice in the world.”

We believe this training and curriculum would likely violate the Equal Protection guarantee of the Fourteenth Amendment and Title VI of the Civil Rights Act. The Equal Protection clause denies states (and their agencies) the power to treat individuals differently or stereotype them because of their skin color. *Shelley v. Kraemer*, 334 U.S. 1, 22 (1948); *Shaw v. Hunt*, 517 U.S. 899, 908 (1996). “Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Rice v. Cayetano*, 528 U.S. 495, 517 (2000) (citing *Hirabayashi v. United States*, 320 U.S. 81, 100 (1943)). Regardless of their purported motivation, such distinctions and stereotypes are presumptively invalid and will be upheld only upon extraordinary justification. *Personnel Admin. v. Feeney*, 442 U.S. 256, 272 (1979); see *Fisher v. University of Texas*, 570 U.S. 297, 310 (2013) (courts will strictly scrutinize state programs that utilize racial classifications). Similarly, Title VI prohibits racial discrimination and racially hostile environments in any federally-funded program, including public schools. 42 U.S.C. § 2000d, d-4a(2); *Grutter v. Bollinger*, 539 U.S. 306, 343-4 (2003).

The SPS training and curriculum require staff and students not only to classify themselves and others by skin color, but also to associate those colors with various “traits.” As an “anchor standard,” this concept is apparently central to SPS’s program. That association reaffirms the pernicious notion that people born with certain skin colors largely think, act, and behave in certain ways. Moreover, at least some of the materials openly advocate for race-based discrimination: Ibram Kendi, for example, teaches that the only solution to discrimination is more discrimination. That would be less concerning if opposing views were also presented, but they are not. SPS claims its antiracism program will nonetheless encourage students to view themselves and others as individuals and will not discriminate. We are skeptical. Given the continual, “anchoring” focus on how certain skin colors exhibit certain “traits,” it is difficult to see how individuality will be respected.

It is therefore not surprising that this approach is already the subject of civil rights litigation. In the name of antiracism and anti-bias, the Evanston school district employed Pacific Educational Group and its Courageous Conversations program to conduct teacher training. In accordance with the position that different “cultures” have different “traits,” staff and students were taught a multitude of race-based stereotypes: white people value individuality whereas black people prefer collectivism, white people are “loud, authoritative, and controlling” while black people are typically silent, white families consist of four people and a pet but black families are a village, white people can afford apartments or homes while black people cannot, and white people engage in “distancing, intellectualizing, rationalizing” whereas black people do not. The training also mischaracterized and disparaged “color-blindness,” claiming it means one “pretend[s] not to see color” and “helps racism.” In June, a teacher filed a civil rights lawsuit against

the district based on those teachings, styled as *Deemar v. Board of Education of Evanston*, Case No. 2021-CV-03466 (N.D. Ill. June 29, 2021). That lawsuit is pending. To the extent SPS uses Pacific Educational Group, Courageous Conversations, or any other program that teaches similar concepts, we urge it to reconsider.

Encouraging staff and students to identify themselves (and others) by skin color has the further deleterious effect of eroding school cohesion. It teaches individuals to color-code their fellow human beings, and to perceive those with different skin colors as victim or oppressor, “ally” or adversary, or simply “the other.” Rather than unifying the community, it furthers intolerance, division, and even racism.

The teachings also appear to violate at least two provisions of the Board of Education’s code. Section 0521 of that code guarantees an environment free from discrimination and harassment based on immutable traits:

The District shall promote nondiscrimination and an environment free of harassment based on an individual’s race, color, religion, sex, sexual orientation, gender identity/expression, national origin, ancestry, disability, marital status or age or because of the race, color, religion, sex, sexual orientation, national origin, genetic information, marital status or age of any other persons with whom the individual associates or status as a Veteran. In keeping with requirements of federal and state law, the District strives to remove any vestige of discrimination in employment, assignment and promotion of personnel; in educational opportunities and services offered to students; in student assignment to schools and classes; in student discipline; in location and use of facilities; in educational offerings and materials; and in accommodating the public at public meetings.

Grouping staff and students by skin color and associating those colors with certain “traits” does not comply with that anti-discrimination policy.

Additionally, Section 6144 of that code requires schools to provide access to diverse sources and opinions, and to teach socio-political issues in an impartial manner:

Free discussion of controversial issues is the heart of the democratic process. Freedom of speech and free access to information are among our most cherished traditions. In the study of controversial issues, within the framework of our curriculum in the Somers Public Schools, the student has at least four rights to be recognized:

1. The right to study controversial issues of interest to students, which have political, economic, psychological or social significance.
2. The right to have free access to all relevant information.
3. The right to study under competent instruction in an atmosphere free from bias and prejudice.

4. The right to form and express his/her own opinions on controversial issues without thereby jeopardizing the student's relations with the teacher or the school. The study of controversial issues is objective and scholarly, with a minimum emphasis on opinion. The teacher approaches controversial issues in the classroom in an impartial and unprejudiced manner, and must refrain from using classroom privileges and prestige to promote a partisan point of view.

The Administrative Report and Framework suggest that staff and students will be presented not with "free access to all relevant information," but with only a narrow band of sources and viewpoints. For example, the materials presuppose that every individual must and should identify closely (if not primarily) with their skin color. Similarly, the materials emphasize the importance of race-consciousness -- that is, taking skin color into account when interacting with other individuals or making decisions. Additionally, the materials discussing outcome disparities all conclude they are caused entirely by systemic racism. Furthermore, the materials state the proper way to oppose injustice is through "plan[ning] and carry[ing] out collective action." Nothing in the materials indicates the fair presentation of sources that offer different perspectives. We ask that SPS comply with its policy (and with educational rigor) by exposing staff and students to a broad range of voices and perspectives, thereby enabling individuals in the community to form their own opinions and to productively engage with diverse ideas.

We would like to give SPS an opportunity to respond. Please let us know within the next five business days if you intend to do so.

Very truly yours,

Letitia Kim
Managing Director of the Legal Network
Foundation Against Intolerance & Racism
letitia@fairforall.org