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## Political Noise, CRT, and School Governance: A Federalism Perspective

Stephen L. Schechter and Thomas S. Vontz

Whether Critical Race Theory (CRT) should be taught in public schools triggers polarized views and high levels of political noise across the federal system.

- The National Association of School Boards (NASB) sent a [letter](#) to President Joseph Biden in 2021 requesting federal law-enforcement aid to counter threats, intimidation, and violence against school officials that NASB deemed to be “a form domestic terrorism.” The letter led more than half of the state chapters to cancel their NASB membership.
- The [U.S. Department of Justice and FBI](#) agreed to assist local officials where threats of violence might constitute federal crimes.
- Legislatures in [36 states](#) have passed or are considering laws to regulate the teaching of race and racism or demand ‘increased transparency,’ such as the proposed “[Parental Bill of Rights](#)” in Kansas and “[divisive concepts](#)” legislation in Georgia and Alabama.
- Legislatures in [17 states](#), however, have passed or are considering bills to expand [teaching about racism, bias, and the contributions of certain ethnic groups](#).
- Noisy battles over what should be taught in our schools and who gets to decide continue to be waged at local [school board meetings](#).
- And, additional curriculum regulation is viewed by many teachers and prospective teachers as [another reason to leave or avoid teaching altogether](#).

CRT is the kind of noisy political issue that represents not only partisan and ideological divisions but also cultural extremes over deeply held value preferences. What’s a teacher or a citizen to do?

### CRT AS A CONTROVERSIAL ISSUE

CRT sparks extreme value differences because it opens the window to how we teach race and racism in American

history and civics. That in turn opens the window wider to debates over how to teach the American system -- as flawless (patriotically), flawed (skeptically), or deeply flawed (critically).

The [National Education Association has endorsed the teaching of CRT](#) as one “academic framework,” but very few teachers teach its most controversial elements; still fewer teach it in its entirety. The main reason is practical: when a curriculum issue becomes especially politically noisy (i.e., politicized), the sensible teacher adopts an “avoid conflicts” approach.

CRT is complex, not well-understood by teachers, and generally (and intentionally) outside the scope of traditional history, civics, and government classes. CRT, among other things, holds that (1) race and racism permeate and predominate history, institutions, attitudes, social structures, and public policies in the United States; (2) Enlightenment principles such as liberalism, objectivity, individual merit, and rationalism are part of the problem, not the solution; (3) the American constitutional system that is based on those Enlightenment principles has and continues to inspire entrenched structural racism; and (4) the search for Enlightenment-based remedies such as affirmative action are doomed to fail. As a result, CRT is perceived as a view that defies not only conservative but also liberal and moderate approaches to teaching race in American history and civics (See [Derick Bell](#), [Richard Delgado and Jean Stefancic](#), [Stephen Sawchuk](#), [William Galston 1](#), and [William Galston 2](#)).

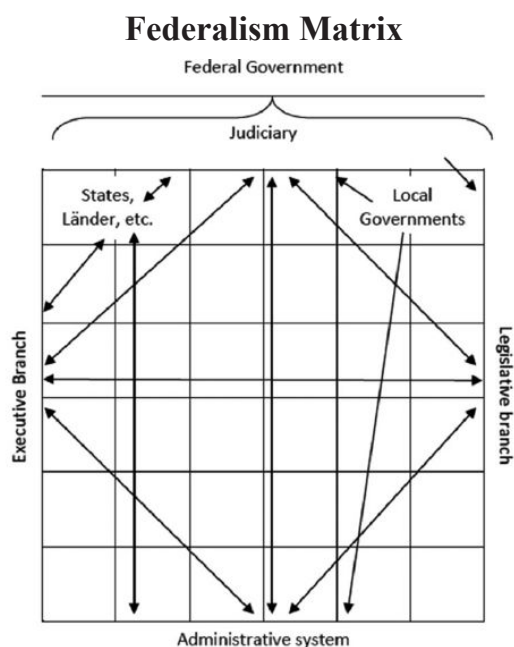
To be clear, as advocates of civic education, we hold to the liberal, Enlightenment position but certainly understand the intellectual tradition of critical theory and respect those who believe that such an approach brings one closer to the truth of the matter. In any case, this digest focuses on *the politics* of CRT and how federalism enhances our under-

standing of those politics and the teaching of “controversial issues” such as CRT, especially in an age of affective polarization, namely, Democrats’ and Republicans’ dislike and resentment of each other.

## THE FEDERALISM PERSPECTIVE

What does a federalism perspective add to teacher and citizen understandings of a polarized issue like CRT?

Constitutionally, of course, federalism is a principle that first authorizes and then distributes and limits government powers. Specifically, federalism provides for the distribution and sharing of powers among the federal and state governments. An enhanced federalism perspective views those relationships as a matrix (see below) based on differences in *scope* of jurisdiction; namely, wider and narrower arenas between two otherwise co-equal governments.



*Federalism is more than a legal principle – it is a political principle and a cultural way of organizing power and justice; the twin goals of politics in democratic societies.*

Those differences in scope also remind us that federalism is designed to balance unity and diversity. That is, federal and state governments are both constitutional governments representing “polities” or full political systems with their own constitutions, institutions, economies, and cultures. These polities and their governments have a measure of independence, but they are nested. The Framers believed that territory/geography—not class or ethnicity—was the key to resolve differences. Territorially based states would force people with class and ethnic differences to work together in the political process.

Education is not a power of the federal government nor

is it a fundamental right protected by the United States Constitution. As sovereign polities, states are free to educate their citizens as they see fit including, in many states, protecting a right to an education as well as compulsory attendance laws in all 50 states.

For most education issues, including CRT, state governments are free to innovate; some choose to restrict or limit the teaching of race while others require its inclusion in the curriculum. That is, a diversity of ideas about teaching race in K-12 schools are now being tested in 50 “laboratories of democracy.”

## CRT AS A FEDERAL ISSUE

1. **Red and Blue Polities.** State polities encourage people to “vote with their feet” and seek out states and communities that have [like-minded](#) people. Polarization took on a different shape in states as compared to polarization in the federal government where it is rare to have one-party dominate. By contrast, most state electorates are one-party-dominant or one-party-leaning; so they elect one party’s majority in both houses of the state’s legislature and the governorship or at least two out of the three. One-party-dominant states make it much easier to legislate the teaching of race, including CRT restrictions or expansions.
2. **Polarization and Controlling Factionalism.** James Madison famously wrote in *The Federalist No. 10* that the new federalism would help control the spread of the most dangerous threat to democracy, namely, [factions](#). To be clear, deeply red and blue policies are not necessarily factious. They become factious when they violate individual rights or the public good. That is now occurring as states seek to remove or tightly regulate departments of education, schools, and teachers from the curriculum decision-making process. In the end, however, the [courts](#) will likely decide the fate of many CRT-inspired laws.
3. **Education and the Distribution of Power.** The constitutional power to set education policy is essentially a state power, though this does not preclude the federal government from making education policy. Still, the federal [financial contribution to K-12 education](#) is small (8% of the total) and much of school governance happens “closer” to the major funding sources in the state and local government arenas. At the time of this writing, proposed state laws tightly regulating or outright banning the teaching of CRT have spread quickly across states and school districts with conservative Republican majorities.
4. **Diversity in State Education Policy.** The obverse is true too. Many blue and purple states have not banned CRT or related subjects; in fact, many require teaching

the stories and contributions of various marginalized groups. [Teacher unions](#) are among the most influential lobbies in those states and exert pressure on state legislatures not to meddle in curriculum matters. So, in this respect at least, the federalism controls on the national spread of factionalism seem to be working. The map may change, but one side or the other has not spread nationwide. Nor has either side secured even a token congressional resolution let alone a congressional law on the matter.

5. **Diversity in School Governance.** [Michael W. Kirst](#) and other politically minded education scholars have noted a wide variation of school governance across states—from state-centered to local-centered to shared-control. Kirst and others have noted the trend since the 1970s toward more state centralization of education policy and school governance due to a host of issues including setting more uniform standards of academic achievement, equalizing financial disparities among property rich and poor districts, union desires to have a single lobbying point, and linking economic and educational development. Centralization has important implications for public participation and where parents, the general public, and interest groups can go to achieve their curriculum demands such as regulating CRT.

6. **Federalism and Popular Control.** The dean of modern federalism scholarship, [Morton Grodzins](#), and others have addressed citizens' political instincts and the opportunities for participation in the federal system. They maintain that the federal system has multiple arenas with wide fissures or cracks in which ordinary people can start walloping all at once; that there was popular advantage to using multiple arenas in multiple ways; that it increases the chances of media attention, political reach, and political clout; and that if you holler loud enough, you would be heard. This form of local protest is consistent with the idea popular sovereignty, namely, that the people are free to turn up the "political noise" on their deeply held concerns about CRT and other curriculum matters at school board meetings. Time and again, the most [successful such public policy campaigns](#) begin locally by coordinated and networked local chapters of organizations with large numbers of members who are highly enthusiastic even if they are not textbook informed.

7. **Noise and National Public Opinion.** Public polls on teaching CRT, race, and racism yield interesting results. According to a [July 2021 Reuters Poll](#), most Americans are not well informed about CRT; the political noise does not match actual public opinion. More than 75% of Americans have never heard of the [New York Times 1619 Project](#) or President Trump's [1776](#)

[Report](#); majorities of both Democrats (>80%) and Republicans (>55%) support teaching about the impacts of slavery and racism, and a large majority does not favor state government bans on CRT or the 1619 Project (though Republicans more often support bans).

Using a federalism perspective to analyze the ongoing CRT debates not only casts additional light on a controversial issue (CRT), it also provides insights into the way we govern ourselves. Our federal system 1) fosters citizen participation in multiple governmental and non-governmental arenas; 2) allows for a diversity of approaches to teach about race; 3) utilizes a matrix of decision makers that are nested within school districts, states, and the national government; 4) provides safety valves and outlets for diverse perspectives; and 5) helps Americans to seek moderation among sometimes complementary and sometimes competing values/principles such as unity and diversity.

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## ABOUT THE AUTHOR



**Stephen L. Schechter** was a Fellow at the [Center for the Study of Federalism](#) and Professor Emeritus of Political Science at Russell Sage College. Professor Schechter was the author or editor of more than 20 books on constitutional history and federalism. His books include *Well Begun: Chronicles of the Early National Period*, [Roots of the Republic](#), and *Contexts of the Bill of Rights*, which he co-edited with Pulitzer-prize nominee Richard B. Bernstein. Schechter served as editor-in-chief of Cengage's multi-volume and award-winning [American Governance](#).



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