



May 17, 2021

Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue SW, Room 3C152
Washington, DC 20202

RE: "Proposed Priorities-American History and Civics Education"
Docket ID ED-2021-OESE-0033

To Whom It May Concern:

The Department of Education's Proposed Rule defining priorities for the American History and Civics Education programs, under the misleading name of "anti-racism," actually encourages and seeks to direct federal funds to the teaching of racial discrimination in America's elementary and secondary school systems. The Proposed Rule should be withdrawn, just as individual states, which actually have the authority over the nation's K-12 educational system, should oppose race-based pedagogy as part of their curricula and even if attempted to be imposed by the federal government.

As further comment on this Proposed Rule, on behalf of my fellow Commissioners, I submit and draw to your attention Appendix III of *The 1776 Report*, entitled "Created Equal or Identity Politics?" *The 1776 Report* was written by The President's Advisory 1776 Commission, and submitted to the President and released as a public document on January 18, 2021. For this purpose, I have taken the liberty of submitting the Appendix from the recently published book version that contains commentary and footnotes to support the arguments made therein. As a public document, the full report is widely available on numerous websites, and I commend it to your review.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matt Spalding'.

Matthew Spalding
Executive Director



APPENDIX III

CREATED EQUAL OR IDENTITY POLITICS?

A MERICANS ARE deeply committed to the principle of equality enshrined in the Declaration of Independence, that all are created equal and equally endowed with natural rights to life, liberty, and the pursuit of happiness. This creed, as Abraham Lincoln once noted, is “the electric cord” that “links the hearts of patriotic and liberty-loving” people everywhere, no matter their race or country of origin.¹ The task of American civic education is to transmit this creed from one generation of Americans to the next.

In recent times, however, a new creed has arisen challenging the original one enshrined in the Declaration of Independence. This new creed, loosely defined as identity politics, has three key features. First, the creed of identity politics defines and divides Americans in terms of collective social identities. According to this new creed, our racial and sexual identities are more important than our common status as individuals equally endowed with fundamental rights.

Second, the creed of identity politics ranks these different

racial and social groups in terms of privilege and power, with disproportionate moral worth allotted to each. It divides Americans into two groups: oppressors and victims. The more a group is considered oppressed, the more its members have a moral claim upon the rest of society. As for their supposed oppressors, they must atone and even be punished in perpetuity for their sins and those of their ancestors.

Third, the creed of identity politics teaches that America itself is to blame for oppression. America's "electric cord" is not the creed of liberty and equality that connects citizens today to each other and to every generation of Americans past, present, and future. Rather, America's "electric cord" is a heritage of oppression that the majority racial group inflicts upon minority groups, and identity politics is about assigning and absolving guilt for that oppression.

According to this new creed, Americans are not a people defined by their dedication to human equality, but a people defined by their perpetuation of racial and sexual oppression.

The Historical Precedent for Identity Politics

Whereas the Declaration of Independence founded a nation grounded on human equality and equal rights, identity politics sees a nation defined by oppressive hierarchies. But this vision of America is actually not new. While identity politics may seem novel and ground-breaking, it resurrects prior attempts in American history to deny the meaning of equality enshrined in the Declaration. In portraying America as racist and white supremacist, identity politics advocates follow Lincoln's great rival Stephen A. Douglas, who wrongly claimed that American government "was

made on the white basis” “by white men, for the benefit of white men.”* Indeed, there are uncanny similarities between 21st century activists of identity politics and 19th century apologists for slavery.

John C. Calhoun is perhaps the leading forerunner of identity politics. Rejecting America’s common political identity that follows from the Declaration’s principles, he argued that the American polity was not an actual community at all but was reducible only to diverse majority and minority groups. Calhoun saw these groups as more or less permanent, slowly evolving products of their race and particular historical circumstances.

Like modern-day proponents of identity politics, Calhoun believed that achieving unity through rational deliberation and political compromise was impossible; majority groups would only use the political process to oppress minority groups. In Calhoun’s America, respect for each group demanded that each hold a veto over the actions of the wider community. But Calhoun also argued that some groups must outrank others in the majoritarian

* Douglas’ unsubstantiated claim, also made by Chief Justice Taney and echoed today in many textbooks, was that the founders did not include blacks in the Declaration of Independence. Stephen Douglas, “Third Debate with Lincoln at Jonesboro, Illinois” in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 3 (New Brunswick: Rutgers University Press, 1990), 112. Lincoln responded in the Fifth Debate at Galesburg, Illinois: “The entire records of the world, from the date of the Declaration of Independence up to within three years ago, may be searched in vain for one single affirmation, from one single man, that the negro was not included in the Declaration of Independence; I think I may defy Judge Douglas to show that he ever said so, that Washington ever said so, that any President ever said so, that any member of Congress ever said so, or that any living man upon the whole earth ever said so.” Abraham Lincoln, “Fifth Debate with Stephen A. Douglas at Galesburg, Illinois,” in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 3 (New Brunswick, NJ: Rutgers Univ. Press, 1990), 220.

decision-making process. In Calhoun's America, one minority group—Southern slaveholders—could veto any attempt by the majority group—Northern States—to restrict or abolish the enslavement of another group. In the context of American history, *the original form of identity politics was used to defend slavery.*[†]

As American history teaches, dividing citizens into identity groups, especially on the basis of race, is a recipe for stoking enmity among all citizens. It took the torrent of blood spilled in the Civil War and decades of subsequent struggles to expunge Calhoun's idea of group hierarchies from American public life. Nevertheless, activists pushing identity politics want to resuscitate a modified version of his ideas, rejecting the Declaration's principle of equality and defining Americans once again in terms of group hierarchies. They aim to make this the defining creed of American public life, and they have been working for decades to bring it about.

Intellectual Origins of Identity Politics

The modern revival of identity politics stems from mid-20th century European thinkers who sought the revolutionary over-

† “It is a great and dangerous error to suppose that all people are equally entitled to liberty. It is a reward to be earned, not a blessing to be gratuitously lavished on all alike—a reward reserved for the intelligent, the patriotic, the virtuous and deserving—and not a boon to be bestowed on a people too ignorant, degraded and vicious, to be capable either of appreciating or of enjoying it. . . . A reward more appropriate than liberty could not be conferred on the deserving—nor a punishment inflicted on the undeserving more just, than to be subject to lawless and despotic rule.” John C. Calhoun, “A Disquisition on Government,” in *Union and Liberty: The Political Philosophy of John C. Calhoun*, ed. Ross M. Lence (Indianapolis: Liberty Fund, 1992), 42. For analysis of Calhoun, see Harry V. Jaffa, *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War* (Lanham: Rowman & Littlefield Publishers, 2000), 403-471.

throw of their political and social systems but were disillusioned by the working class's lack of interest in inciting revolution. This setback forced revolutionaries to reconsider their strategy.

One of the most prominent, the Italian Marxist Antonio Gramsci, argued that the focus should not be on economic revolution as much as taking control of the institutions that shape culture. In Gramsci's language, revolutionaries should focus on countering the "Hegemonic Narrative" of the established culture with a "Counter-Narrative," creating a counter-culture that subverts and seeks to destroy the established culture.²

Gramsci was an important influence on the thinkers of the "Frankfurt School" in Germany, who developed a set of revolutionary ideas called Critical Theory. Herbert Marcuse, one member of the Frankfurt School who immigrated to the United States in the 1940s, became the intellectual godfather of American identity politics. With little hope that the white American worker could be coaxed to revolution, Marcuse focused not on instigating class conflict but on instigating cultural conflicts around racial identity. He saw revolutionary potential in "the substratum of the outcasts and outsiders, the exploited and persecuted of other races and other colors."³

These ideas led to the development of Critical Race Theory, a variation of critical theory applied to the American context that stresses racial divisions and sees society in terms of minority racial groups oppressed by the white majority.⁴ Equally significant to its intellectual content is the role Critical Race Theory plays in promoting fundamental social transformation. Following Gramsci's strategy of taking control of the culture, Marcuse's followers use the approach of Critical Race Theory to impart an oppressor-victim narrative upon generations of Americans. This work

of cultural revolution has been going on for decades, and its first political reverberations can be seen in 1960s America.

The Radicalization of American Politics in the 1960s

Prior to the 1960s, movements in American history that sought to end racial and sexual discrimination, such as abolition, women's suffrage, or the Civil Rights Movement, did so on the ground set by the Declaration of Independence.

In leading the Civil Rights Movement, Martin Luther King, Jr., was aware that other, more revolutionary groups wanted to fight in terms of group identities. In his "I Have a Dream" speech, King rejected hateful stereotyping based on a racialized group identity. The "marvelous new militancy which has engulfed the Negro community must not lead us to distrust all white people," he warned. King refused to define Americans in terms of permanent racialized identities and called on Americans "to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood" and see ourselves as one nation united by a common political creed and commitment to Christian love.

"When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir," King wrote. "This note was a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights to life, liberty, and the pursuit of happiness."⁵

As the 1960s advanced, however, many rejected King's formulation of civil rights and reframed debates about equality in terms of racial and sexual identities. The Civil Rights Movement came to abandon the nondiscrimination and equal opportunity of col-

orblind civil rights in favor of “group rights” and preferential treatment.* A radical women’s liberation movement reimagined America as a patriarchal system, asserting that every woman is a victim of oppression by men. The Black Power and black nationalist movements reimagined America as a white supremacist regime. Meanwhile, other activists constructed artificial groupings to further divide Americans by race, creating new categories like “Asian American” and “Hispanic” to teach Americans to think of themselves in terms of group identities and to rouse various groups into politically cohesive bodies.⁶

The Incompatibility of Identity Politics with American Principles

Identity politics divide Americans by placing them perpetually in conflict with each other. This extreme ideology assaults and undermines the American principle of equality in several key ways.

* The Civil Rights Act of 1964 was a fulfilment of the Reconstruction Amendments to the Constitution, which in turn reflected the acknowledgement that the Declaration of Independence is the foundation of the Constitution. But this pivotal law based on protecting individual rights was reinterpreted by the bureaucracy and subsequently by the courts to define Americans by group identities. Thus came about racial quotas in employment discrimination cases, busing in school segregation cases, and, subsequently, racial redistricting in voting rights cases. This transformation is described in detail in Hugh Davis Graham, *The Civil Rights Era: Origin and Development of National Policy, 1960-1972* (New York: Oxford University Press, 1990). An abridged version is *Civil Rights and the Presidency: Race and Gender in American Politics, 1960-1972*. The administrative state’s development of race conscious policies is related by Herman Belz, *Equality Transformed: A Quarter-Century of Affirmative Action* (New Brunswick: Transaction, 1991). Paul Moreno studies the New Deal background of civil rights policy in *From Direct Action to Affirmative Action: Fair Employment Law and Policy in America, 1933-1972* (Baton Rouge: Louisiana State University Press, 1997).

First, identity politics attacks American self-government. Through the separation of powers and the system of checks and balances, American constitutionalism prevents any one group from having complete control of the government. In order to form a majority, the various groups that comprise the nation must resolve their disagreements in light of shared principles and come to a deliberative consensus over how best to govern. In the American system, public policy is decided by prudential compromise among different interest groups for the sake of the common good.

Identity politics, on the other hand, sees politics as the realm of permanent conflict and struggle among racial, gender, and other groups, and no compromise between different groups is possible. Rational deliberation and compromise only preserve the oppressive status quo.⁷ Instead, identity politics relies on humiliation, intimidation, and coercion. American self-government, where all citizens are equal before the law, is supplanted by a system where certain people use their group identity to get what they want.

Second, by dividing Americans into oppressed and oppressor groups, activists of identity politics propose to punish some citizens—many times for wrongs their ancestors allegedly committed—while rewarding others. Members of oppressed groups must ascend, and members of oppressor groups must descend. This new system denies that human beings are endowed with the same rights, and creates new hierarchies with destructive assumptions and practices.

On the one hand, members of oppressed groups are told to abandon their shared civic identity as Americans and think of themselves in terms of their sexual or racial status. The consequence is that they should no longer see themselves as agents responsible for their own actions but as victims controlled by

impersonal forces. In a word, they must reject, not affirm, the Declaration's understanding of self-government according to the consent of the governed. If members of oppressed groups want to become free, they must rely upon a regime of rewards and privileges assigned according to group identity.

On the other hand, members of oppressor groups merit public humiliation at the hands of others. Diversity training programs, for example, force members of "oppressor" groups to confess before their co-workers how they contribute to racism. Educational programs based on identity politics often use a person's race to degrade or ostracize them.

These degradations of individuals on the basis of race expose the lie that identity politics promotes the equal protection of rights. Advocates of identity politics argue that all hate speech should be banned but then define hate speech as only applying to protected identity groups who are in turn free to say whatever they want about their purported oppressors. This leads to a "cancel culture" that punishes those who violate the terms of identity politics.

Third, identity politics denies the fundamental moral tenet of the Declaration, that human beings are equal by nature. This founding principle provides a permanent and immutable standard for remedying wrongs done to Americans on the basis of race, sex, or any group identity.

Repudiating this universal tenet, activists pushing identity politics rely instead on cultural and historical generalizations about which groups have stronger moral claims than others. They claim this approach offers a superior and more historically sensitive moral standard. But unlike the standard based on a common humanity—what Lincoln called "an abstract truth, applicable to all men and all times"⁸—their historical standard is

not permanent. Rather, it adjusts to meet the political fashions of a particular moment. By this standard, ethnicities that were once considered “oppressed” can in short order turn into “oppressors,” and a standard that can turn a minority from victim to villain within the course of a few years is no standard at all.

Fourth, identity-politics activists often are radicals whose political program is fundamentally incompatible not only with the principles of the Declaration of Independence but also the rule of law embodied by the United States Constitution. Antagonism to the creed expressed in the Declaration seems not an option but a necessary part of their strategy. When activists are discussing seemingly innocuous campaigns to promote “diversity,” they are often aiming for fundamental structural change.

Conclusion

Identity politics is fundamentally incompatible with the principle of equality enshrined in the Declaration of Independence.

Proponents of identity politics rearrange Americans by group identities, rank them by how much oppression they have experienced at the hands of the majority culture, and then sow division among them. While not as barbaric or dehumanizing, this new creed creates new hierarchies as unjust as the old hierarchies of the antebellum South, making a mockery of equality with an ever-changing scale of special privileges on the basis of racial and sexual identities. The very idea of equality under the law—of one nation sharing King’s “solid rock of brotherhood”—is not possible and, according to this argument, probably not even desirable.

All Americans, and especially all educators, should understand identity politics for what it is: rejection of the principle of

equality proclaimed in the Declaration of Independence. As a nation, we should oppose such efforts to divide us and reaffirm our common faith in the fundamental equal right of every individual to life, liberty, and the pursuit of happiness.

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8. George Washington, “Letter to the Hebrew Congregation in Newport, Rhode Island, 18 August 1790,” in *The Papers of George Washington*, Presidential Series, ed. Mark A. Mastromarino, vol. 6 (Charlottesville: University Press of Virginia, 1996), 285.

APPENDIX III

CREATED EQUAL OR IDENTITY POLITICS?

1. Abraham Lincoln, Speech of July 10, 1858, in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 2 (New Brunswick: Rutgers University Press, 1990), 500.
2. Antonio Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, ed. Quintin Hoare and Geoffrey Navell Smith (Lawrence & Wishart, 1971), 5-23.
3. Herbert Marcuse, *One Dimensional Man Studies in the Ideology of Advanced Industrial Society* (Boston: Beacon Press, 1964), 256.
4. An influential essay in critical race theory, which introduced the now widely-used term “intersectionality,” is Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *University of Chicago Legal Forum* 1:8 (1989). For two important works advocating critical race theory in America, see Mari Matsuda, Charles R. Lawrence III, Richard Delgado, and Kimberle Williams Crenshaw *Words That Wound: Critical Race Theory, Assaultive Speech, And The First Amendment* (Westview Press, 1993) and Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (New York: New York University Press, 2017).
5. Martin Luther King, “I Have a Dream speech (1963),” in *A Testament of Hope: The Essential Writings and Speeches* ed. James Melvin Washington (New York, NY: HarperCollins Publishers, 1991), 217-220.
6. Cf., Shulamith Firestone, *The Dialectic of Sex: The Case for Feminist Revolution* (William Morrow and Company, 1970) and Stokely Carmichael and Charles V. Hamilton, *Black Power: The Politics of*

Liberation (New York: Random House, 1967). In response, consider Arthur M. Schlesinger's critique *Disuniting of America: Reflections on a Multicultural Society* (Knoxville, TN: Whittle Books, 1991) and more recently *Mike Gonzalez, The Plot to Change America: How Identity Politics is Dividing the Land of the Free* (New York: Encounter Books, 2020).

7. Cf., the Executive Order that abolishes the 1776 Commission at the same time that it favors aggregating Americans "by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables" in order to measure and advance an equity agenda. Exec. Order 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021).
8. Abraham Lincoln, "Letter to Henry L. Pierce and Others," in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 3 (New Brunswick: Rutgers University Press, 1990), 375.

APPENDIX IV:

TEACHING AMERICANS ABOUT THEIR COUNTRY

1. James Madison, "Letter to William T. Barry" August 4, 1822 in *The Papers of James Madison*, Retirement Series, vol. 2, 1 February 1820–26 February 1823, ed. David B. Mattern, J. C. A. Stagg, Mary Parke Johnson, and Anne Mandeville Colony (Charlottesville: University of Virginia Press, 2013), 557.
2. Abraham Lincoln, "Speech on the Dred Scott Decision June 26, 1857," in *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, vol. 2 (New Brunswick, NJ: Rutgers University Press, 1990), 406.
3. See Peter Wood, ed., *Drilling through the Core: Why Common Core is Bad for America* (Pioneer Institute, 2015) and *Common Core: Yea & Nay* (Encounter Broadside, 2014)
4. See David Randall, "Making Citizens: How American Universities Teach Civics," National Association of Scholars, January 2017, available at: https://www.nas.org/storage/app/media/Reports/Making%20Citizens/NAS_makingCitizens_fullReport.pdf
5. Alexander Hamilton, "The Farmer Refuted," in *The Papers of*