

# Understanding the Difference Between Critical Race Theory (CRT) and Educational Equity.

## What You Need to Know

School Committees throughout Massachusetts are becoming aware of the emergence of Critical Race Theory (CRT) as a matter of controversy. Public meetings have become a forum for critics of and advocates for the inclusion of race as an element of curriculum and instruction, but many educators, parents, and students have not had a thorough explanation of the issue. Some School Committee meetings have included public comments and even demonstrations related to CRT, creating for some stakeholders and members of the public confusion about what CRT is, what it isn't, and how our pursuits of educational equity, diversity in public education, and inclusion of people, issues, and philosophies are impacted.

First, let's consider what critical race theory is and what it is not:

### What it is

Critical race theory (CRT) is a framework and/or analytical tool primarily used in university-level courses. Originating in the 1970s, CRT was first used as a way to help law students think critically about the impact of historical and present-day racism on the legal system. In the 1990s, some colleges of education also started incorporating CRT into their coursework to help aspiring school administrators and teachers better understand inequities in the context of education.

### What it isn't

Critical race theory (CRT) is not part of social studies curriculum and has never been part of social studies curriculum frameworks in Massachusetts.

Massachusetts has a comprehensive curriculum framework for social studies that has been widely praised for its breadth and balance. Anyone can access the frameworks at the web site of the MA Department of Elementary and Secondary Education. Of course, teaching social studies and history will at times require discussion about historic instances of racism or scenarios where race was an important factor. This, in turn, often prompts students' questions and requests for additional discussion on how some elements of history continue to play out in our communities. Massachusetts teachers, as do their colleagues across the country, have experience and expertise in managing these conversations.

**And finally**, as media channels and members of the public are confusing some key terms, it's important to note that the terms **critical race theory and educational equity are not the same and shouldn't be used interchangeably.**

Unlike CRT, which is a tool primarily used in institutions of higher education, **educational equity** is a **K-12 term referring to federal and state policies and requirements.** Specifically, the term is closely associated with "No Child Left Behind" (NCLB) legislation that was led by former President George W. Bush and signed into law in 2002. This watershed moment in US education policy established clear requirements for school districts to disaggregate achievement data by student groups as a way to address and close achievement gaps.

Additionally, in recent years, the terms **equity work** or **diversity, equity, and inclusion (DEI)** have become

commonplace in K-12 education as many districts revisit and renew their local efforts to close achievement gaps as required by Every Student Succeeds Act (ESSA). ESSA further advanced equity in US education policy by upholding important protections outlined in NCLB. At the same time, it granted flexibility to states in exchange for rigorous and comprehensive state-developed plans designed to close achievement gaps, increase equity, improve the quality of instruction, and increase outcomes for all students.

**MASC established a new division for DEI (Division X) which is open to all members interested in working on diversity, equity and inclusion. We have held, and will continue to hold division meetings, Friday Learning Lunches, and state conference sessions on DEI. We hope you find this information helpful as questions arise about this topic.**

## Engaging in an open dialog on critical issues in turbulent times

Across the country, school committees (called school boards in most states) have started to address both Diversity, Equity and Inclusion and Critical Race Theory. CRT, in particular, has become a controversial matter in these highly politicized times.

As is the case with most public policy and educational issues that are controversial, discussions attract the thoughtful, passionate, or even outraged constituencies.

In the past several years in Massachusetts, we have seen in-person and virtual meetings overwhelmed by demonstrations, public commenters, chat room writers, bloggers, and other social media users over several issues. For example:

- Collective bargaining disputes that draw people to meetings and, in at least one case, forced a public meeting to adjourn.
- Student safety or alleged abuse.
- Expediting the return to in-person learning or, conversely, for more remote options.
- Disputes over the continued mandate to wear masks in school.
- Vaccinating students and staff.
- Opposition to critical race theory by those who believe that CRT is embedded in the curricula and pose a threat to the education of their children.

School Committees wrestle with the best strategies for maintaining civility, open dialog, and order to help them pursue the best way to do their work promoting student achievement.

*We will all continue to explore the best ways to keep thoughtful discussions going, promote principled dissent, and disagreement that informs public debate.*

## School committees leading the discussion on critical issues

MASC and our federation colleagues in the National School Boards Association have urged school committees to be “the place with the table” on matters of public education and community engagement. Some of the most effective strategies include:

- Leadership of an **engaged chair** and collaborating board colleagues to personify civility and respect and to keep a meeting from getting out of control.
- Establish as a school committee your **mission and vision statement** that commits to the democratic process, thoughtful discussion, and the safety and security of students and families.
- Using **public meetings as forums** for dialog and inviting dissent and discussion in doing so.
- Explaining the **importance of fact-based**, respectful, and ongoing discussions that permit all perspectives.
- Utilizing **well tested strategies and expert staff** to resolve conflict. These strategies often involve different sides of the arguments to be present at the same time.
- Securing the **safety** of places for discussion to ensure that no one is harmed in the process.
- Protecting the privacy rights of faculty, students and families.
- Allowing even the **unpopular ideas** to be expressed in the interest of preserving the democratic process.
- **Inviting experts** to represent the factual background of the issues at hand.
- **Engage civic leaders** to participate in supporting the public schools and their mission.

*MASC is grateful for the assistance of our school board association colleagues across the country for providing information and guidance for this document.*

## Supreme Court Finds School District Violated First Amendment for Off-Campus Speech

*The following update was compiled by members of the MASC Council of School Attorneys. It is for informational purposes only and should not be considered legal advice.*

More than 50 years ago, the Supreme Court issued a landmark decision regarding student speech rights. In *Tinker v. Des Moines Indep. Community Sch. District*, 393 US 503 (1969), the Court made its famous pronouncement that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Recognizing the need for discipline and a focus on learning in schools, the Court identified two circumstances in which regulation/discipline would be appropriate: (1) where a student’s speech causes “material and substantial disruption” of the school, and (2) where the speech “infringes or interferes with” the “rights” of others.

In 1969, the internet, cell phones

and social media were all decades in the future and few could even imagine how a student’s speech made from a location outside the “schoolhouse gate” – “off campus” – could nonetheless permeate the school community and affect other students. For the past two decades, the lower courts have wrestled with the task of applying *Tinker* to a culture in which student speech increasingly takes place through electronic media used in remote locations.

On June 23, 2021 the Court finally applied *Tinker* to the digital age in *Mahanoy Area Sch. District v. B.L.*, No. 20-255 (2021). The decision is important but, not surprisingly, precise guidance for lower courts and for school districts is limited. The case decided by the Court involved one student’s post on Snapchat. It took place at a remote location, did not target any specific students or school staff, and was limited to a vulgarity-

**continued on page 3**

## Board of education approves vocational school admission changes

Over the objections of advocates who said the changes did not go far enough, the state board of Elementary and Secondary Education approved at their June 22 meeting new regulations aimed at creating more equity in admissions to vocational high schools.

The changes come after years of concern that vocational schools were shutting out black and Latino students, English language learners and other disadvantaged groups through their use of selective admission criteria that weigh student grades, attendance, and discipline history.

According to the new regulations, vocational schools cannot use any admissions criteria that have a disproportionate impact on the enrollment of demographic groups protected by state and federal law unless they can show they are

**continued on page 2**

## MASC Summer Institute: ESSER \$\$\$ Equity. Efficacy. Cost Efficiencies



Join your colleagues and other school leaders on Saturday, July 17 for a critical issues program designed to help school committees prepare for the unprecedented social/emotional and financial challenges districts will confront as they plan for post-pandemic school reopenings.

The program is being held at the Marriott Courtyard in Marlboro beginning at 8:00am (registration) and concluding at noon.

The opening session (8:45-10:15am), presented by practitioners from the Center for Optimized Student Support at Boston College’s Lynch School of Education, will offer insights on how districts can put in place evidence-based models of student support to help address the disruptive effects of the pandemic on students social/emotional and academic well-being. Learn how these “wrap-around services” can support the whole child and improve outcomes for students and their families. (See related article on wrap-around services on page 3).

**continued on page 2**

## IN MEMORIAM: ROBERT GASS

We are saddened to report that former MASC President (2001) Robert Gass passed away unexpectedly on June 28. A proud graduate of the Randolph Public



Schools, Bob served on the Randolph School Committee for 25 years, including ten years as chair, until his retirement in 2004. Bob also served as Chair of MASC's Division III prior to his election to the MASC Executive Committee. He was a long-time member of the Association's Legislative and Special Education Committees and was appointed by Governor Jane Swift to serve on the Governor's Blue Ribbon Advisory Commission on Competency Determination.

## Vocational School Admission

continued from page 1

“essential to participation” in the school’s program, and that there are not other equally effective standards that would not have such an effect.

In the past, vocational schools that have more applicants than seats were allowed to score applicants on the basis of middle school grades, attendance, discipline history, and a guidance counselor’s recommendations. The new regulations prohibit schools from using excused absences or minor disciplinary infractions in their admissions rankings.

The board approved the changes unanimously, with one member, Mary Ann Stewart, voting “present.”

Vocational schools must develop new enrollment policies to take effect for the 2022-23 school year.

Advocates for change to the admissions process had called for the state to have a lottery to admit students to oversubscribed schools. The board opted for regulations that say admission policies must be aimed at enrolling a student population at vocational schools with a “comparable academic and demographic profile” to the sending districts that students come from.

## School District Policies on Mask Usage



MASC reminds school districts that they may wish to revisit /revise their policy around mask-wearing in light of recent statements issued by DESE, CDC and WHO. School committees adopted mask-wearing policies last year in light of the state’s Covid-19 health/safety regulations. State-level mandatory mask-wearing guidance was rescinded last month; recent concerns regarding the Delta variant may lead districts to continue current practice.

## MA NEWS

### REMOTE PUBLIC MEETINGS AUTHORIZED THROUGH APRIL 1, 2022

Under new legislation “An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency” which was enacted in mid-June, public bodies may continue to provide live “adequate alternative means” of public access to the deliberations of the public body instead of holding meetings in a public place that is open and physically accessible to the public. “Adequate alternative means” may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time.

In addition, the new law authorizes all members of a public body to continue participating in meetings remotely. The Open Meeting Law’s requirement that a quorum of the body and the chair be physically present at the meeting location remains suspended.

The new law also provides that a municipal public body that, for reasons of economic hardship and despite best efforts, is unable to provide alternative means of public access that will enable the public to follow the proceedings in real time, may instead post a full and complete transcript, recording, or other comprehensive record on its website as soon as practicable after the meeting. However, this provision is not available for meetings when another general or special law, regulation or local ordinance or by-law requires allowance for active participation by members of the public, such as the case of certain public hearings.

All other provisions of the Open Meeting Law and regulations, such as the requirements regarding posting notice of meetings and creating and maintaining accurate meeting minutes, remain in effect. Notice of meetings must be posted at least 48 hours in advance, not including weekends and holidays, and the meeting notice must clearly specify how the public may access the meeting, whether in-person, remote, or both.

## MASC Summer Institute

continued from page 1

The second session (10:30am-Noon) will focus on making the most of the federal (ESSER III) dollars that are available to school districts. A panel of school business officials will discuss the provisions and deadlines attached to this recent round of stimulus money; how different districts are using the money to positively impact teaching and learning; and school committee responsibility for supporting, sustaining and overseeing thoughtful investment of this grant. The session will also incorporate issues of equity in allocating spending and the political pressures in play during these extraordinary fiscal times.

# 'Wraparound' services crucial to post-pandemic school reopenings

By Joan Wasser Gish

IT'S JUNE 2021 AND, FINALLY, MOST children have returned to full-time in-person school. Teachers are reconnecting with students whose experiences over the last 16 months vary widely. . . .

Impacts of the pandemic on children are not yet fully understood. But long-standing research on the effects of poverty on child development make clear that economic disruption, lack of access to food, stable housing, enriching experiences, and protective relationships are all associated with deprivations and stresses that can impede healthy development and readiness to learn. Yet science also demonstrates that children are resilient and replete with strengths. The impacts of scarcity and stress can be countered with relationships, resources, and opportunities for children and their families. . . .

As more children and youth return to in-person school "wraparound" comprehensive services are no longer optional. Access to supports and opportunities must become a regular part of how schools operate because they play a pivotal and preventive role in supporting children and youth's mental health, social-emotional development, and academic learning.

Comprehensive services can be coordinated effectively and cost-efficiently by schools so that taxpayer investments lead to improved learning outcomes and lifelong opportunities for students. How schools can do this is demonstrated by an evidence-based model of "integrated student support," City Connects. The model was developed 20 years ago in the Boston Public Schools and is incubated at Boston College. Researchers find that City Connects significantly improves student academic and social-emotional outcomes, especially

for low-income, Black, Latinx, and immigrant students.

A trained student support staff member, usually a school counselor or social worker, serves as a "coordinator" in a school, working closely with teachers, staff, families, students, and community agencies to develop, and ensure delivery of, comprehensive individualized support plans for each student. . . .

This article appeared in the June 10, 2021 edition of **Commonwealth Magazine**. To view the complete article, go to: <https://commonwealthmagazine.org/economy/wraparound-services-crucial-to-school-reopenings/>

*Joan Wasser Gish is director of strategic initiatives at the Boston College Center for Optimized Student Support and a former member of the Massachusetts Board of Early Education and Care. Gish, her City Connects colleagues and MA school administrators will discuss this program in greater depth at MASC's Summer Institute on July 17 (see related article on page 1).*

## First Admendment

continued from page 1

laced rant about the school's cheerleading program. There was no evidence that it had any effect on the school's learning environment. Notwithstanding this, the school district imposed upon the student a one-year suspension from the cheerleading program. Based on these facts, the Court in an 8-1 decision held that the school's one-year suspension of the student from cheerleading activities violated her First Amendment rights.

More important than the Court's holding in the specific case is the Court's further statement that "the special characteristics that give schools additional license to regulate student speech [do not] always disappear when a school regulates speech that takes place off campus." Recognizing that certain attributes of student speech outside the school or its programs mean that schools have less "leeway" in regulating that speech, the Court has left "for future cases" the determination as to

"where, when, and how ... the speaker's off-campus location will make the critical difference." But the Court nonetheless suggested several areas in which discipline for off-campus speech by students will still be appropriate under the First Amendment.

These include speech that involves "serious or severe bullying or harassment targeting particular individuals", "threats aimed at teachers or other students", and "failure to follow rules" pertaining to "online school activities." The Court declined to "determine precisely... the length or content of any such list of appropriate exceptions or carveouts."

One such case is currently pending in the United States Court of Appeals for the First Circuit – *Doe v. Hopkinton Public Schools*, No. 20-1950. In that case several members of a Snapchat group and the school's hockey team had demeaned another student in Snapchat posts and at team events, causing the student to refuse to try out for another sport, to withdraw from a chosen class, and ultimately to transfer from the

school. Suspensions ensued based on violation of the Massachusetts Anti-Bullying law, G.L. c. 71, §37O. Two students who had only been tangentially involved in the Snapchat posts filed suit claiming a violation of their student speech rights, but the federal district court rejected their claim, resulting in further appeal. The case has been briefed and awaits oral argument and eventual decision.

As further guidance is developed, school districts must keep the following in mind before a student is disciplined for statements made on social media:

Student speech that can be regulated if it takes place during school or school programs may not be subject to discipline if it is made outside school hours and "off campus" unless it fits certain criteria, such as cyberbullying, harassment, or threats that target a specific student/students or staff.

*Decisions regarding student discipline for speech that occurs outside of school should be made after consultation with the district's legal counsel.*

# MASC/MASS Conference is back on track for November 3-6, 2021

THE PANDEMIC EVENT THAT REVERBERATED ACROSS the globe in the first months of 2020, impacted schools—and lives—like few crises in recent memory. Isolation, fear, loss of family, friends and jobs, food insecurity and mental health issues, and the transition to a world that was largely conducted on “remote” for 15 months. MASC and MASS salute the administrators, educators and students who rallied to the challenge and we look forward to reclaiming lost time and experiences in the weeks and months ahead.

This year’s joint conference in Hyannis is being designed with that goal in mind. We are never more mindful than now of the need to reimagine a system that is better aligned to meet the needs of all our students, regardless of their zip code, language of origin, or personal challenges. While still a work in progress, we are putting together conference programs that will help you and your district address the inequities and educational gaps the pandemic has brought to light. Sessions will highlight critical issues including recovering social-emotional health (students AND adults); re-engaging the education community; and budget and finance (SOA and federal dollars).

Keynote speakers (to be announced) will provide real-time takeaways on confronting the often uncomfortable conversations around diversity, equity and inclusion. And a panel of education leaders will hear from—and respond to—a diversity of students who will share their

experiences of the past year and what they want from school leaders moving forward.

And while we can’t wait to welcome members back in person, we are also aware that they may be some who for reasons of health or family or work are unable to join their colleagues in Hyannis. For the first time, we are making the conference sessions and keynotes available remotely in real time, via Zoom. The sessions will also be recorded and registered attendees will be able to access these programs on the MASC website at their convenience following the conference.

**REGISTER NOW** online ([www.masc.org](http://www.masc.org)) for early bird savings and follow conference program updates on our website: <https://www.masc.org/events-and-conferences-3/annual-joint-conference/2021>. For accommodations, register directly on the hotel website: [www.capecodresortandconferencecenter.com](http://www.capecodresortandconferencecenter.com). Use group code: MASC21.

**And don’t forget: the MASC Delegate Assembly will be held on Saturday, November 6 at 9am (live and remote format).** Conference meal registration information will follow and be posted on the website.



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