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Of DEI and Denials: A Critical Discourse Analysis of Texas' 88th Legislative Session

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Abstract: Emerging literature on anti-CRT, anti-DEI efforts in education suggest that these attacks represent a rearticulation of racial ideologies that seek to contain racial progress. Although crafting anti-CRT and anti-DEI policies is primarily conducted through discourse, few studies explore the specific discursive mechanisms used to justify these efforts as racially neutral. Using critical discourse analysis and insights from color-evasive racism, we examine the discourse of public hearings on anti-DEI and anti-CRT bills introduced in Texas' 88th legislative session. We find that policy actors employ denials of racism and articulate three of the four frames of color-evasive racism. By examining the role of racism denial in legitimizing anti-CRT and anti-DEI efforts in higher education policy, we hope to attend to the specific roles of discourse in legitimizing racist policies and actions in education more broadly.

Keywords: critical discourse analysis; legislative process; denials of racism; anti-DEI legislation; anti-CRT legislation

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De DEI y denegaciones: Un análisis crítico del discurso de la 88.^a sesión legislativa de Texas

Resumen: La literatura emergente sobre los esfuerzos contra la teoría crítica de la raza (CRT) y contra la diversidad, equidad e inclusión (DEI) en la educación sugiere que estos ataques representan una rearticulación de ideologías raciales con el objetivo de contener el progreso racial. Aunque la creación de políticas anti-CRT y anti-DEI se realiza principalmente a través del discurso, pocos estudios exploran los mecanismos discursivos específicos utilizados para justificar estos esfuerzos como racialmente neutrales. En nuestra investigación, utilizamos el análisis crítico del discurso y la teoría del racismo evasivo para examinar el discurso de las audiencias públicas sobre las propuestas de leyes anti-DEI y anti-CRT presentadas en la 88.^a sesión legislativa de Texas. A través de nuestro análisis, encontramos que los actores políticos emplean negaciones del racismo y articulan tres de los cuatro marcos del racismo evasivo. Al examinar la función de estas negaciones en la legitimación de los esfuerzos anti-CRT y anti-DEI en la política de educación superior, buscamos destacar las funciones específicas del discurso en la legitimación de políticas y acciones racistas en la educación en general.

Palabras-clave: análisis crítico del discurso; proceso legislativo; negación del racismo; legislación anti-DEI; legislación anti-CRT

De DEI e negações: Uma análise crítica do discurso da 88^a sessão legislativa do Texas

Resumo: A literatura emergente sobre teoria racial anticrítica (CRT) e esforços antidiversidade, equidade e inclusão (DEI) na educação sugere que esses ataques representam um rearticulação de ideologias raciais com o objetivo de conter o progresso racial. Embora a criação de políticas anti-CRT e anti-DEI seja feita principalmente através do discurso, poucos estudos exploram os mecanismos discursivos específicos utilizados para justificar estes esforços como neutros em termos raciais. Em nossa pesquisa, utilizamos a análise crítica do discurso e a teoria do racismo evasivo para examinar o discurso da audiência pública sobre propostas de leis anti-DEI e anti-CRT introduzidas na 88^a sessão legislativa do Texas. Através da nossa análise, descobrimos que os atores políticos empregam negações do racismo e articulam três dos quatro quadros de racismo evasivo. Ao examinar o papel destas negações na legitimação dos esforços anti-CRT e anti-DEI na política de ensino superior, procuramos destacar as funções específicas do discurso na legitimação de políticas e ações racistas na educação em geral.

Palavras-chave: análise crítica do discurso; processo legislativo; negação do racismo; legislação anti-DEI; legislação anti-CRT

Of DEI and Denials: A Critical Discourse Analysis of Texas' 88th Legislative Session

Since September 2020, 18 states have introduced policies prohibiting the teaching of critical race theory (CRT; CRT Forward, n.d.) and 23 states have introduced bills prohibiting diversity, equity, and inclusion (DEI) programs (CRT Forward, n.d.). Sixteen states have successfully passed bills banning CRT and DEI in higher education specifically (CRT Forward, n.d.). Rather than representing localized efforts, the widespread nature of these bills reflects a national network of policy actors seeking to dismantle curriculum and programs that invite consideration of structural inequality (Burch, 2023). The push against curriculum and programs that discuss the systemic nature of racism in America originated in K-12 (Knox, 2023), but quickly extended into higher education.

Texas is no exception. When Texas Lieutenant Governor Dan Patrick was sworn into office on January 17, 2023, he pledged to ban the teaching of CRT in publicly funded higher education

(Bradner, 2023). These remarks were made about one year after calling the University of Texas's professors "looney Marxist[s]... poison[ing] the minds of young students" (Dan Patrick [@DanPatrick], 2022) and pledging to end tenure to stop professors from "indoctrinating" college students (McGee, 2022). When Patrick announced his higher education priority bills for the 88th legislative session, he prioritized bills that oppose CRT, defund diversity equity and inclusion programming, and end tenure (Lieutenant Governor Dan Patrick, 2023).

Despite the racialized dimensions of bills, Republican policymakers across the nation have largely justified these bills on the basis of anti-discrimination and personal liberties rather than any intention to discourage discussions of racism or impact diversity on college campuses (Gretzinger & Hicks, 2024). These justifications are similar to arguments made by right wing politicians and activists who sought to ban the 1619 Project from K-12 public schools (e.g. McGee, 2021), ban books from libraries (e.g., Meehan et al., 2023), and prohibit the supposed teaching of CRT in public school districts (e.g., Schwartz, 2023). This is especially notable at the K-12 level where "critical race theory" was used as a semantic proxy (Beaver & Stanley, 2023) for any school programs perceived as a threat (e.g., Sawchuk, 2021). These conflicts over curriculum, classroom materials, staff training, and allowable conversations locate education as a central place of ideological conflict (Natanson et al., 2022; Superville, 2023). Understanding the function of denials of racism and their work in legitimating ideology, then, is important for the education field at large and not just for policy actors or higher education stakeholders.

In this study, we situate denials of racism (van Dijk, 1992) and color evasive racism (Bonilla-Silva, 2017) within a critical discourse framework for understanding the discursive reproduction of power (van Dijk, 2015). The study contributes to emerging work on anti-CRT and anti-DEI pushes at the K-12 and higher education level. We additionally situated our study within a broader body of literature on racial backlash in education. By examining the role of racism denial in legitimizing anti-CRT and anti-DEI efforts in higher education policy, we attend to the specific roles of discourse in legitimizing racist policies and actions.

This study addressed the following research questions. In the discourse of the introductory hearings for legislation prohibiting CRT and DEI in Texas higher education,

1. How do state policy actors employ denials of racism in introducing two race-related higher education bills in the Texas 88th legislative session?
2. How, if at all, do denials of racism reinforce color-evasive racism?
3. How are denials of racism addressed and resisted by policy actors?

Conceptual Framework

Our study is anchored in critical theories concerning racist ideology. We specifically attend to discursive acts of denials of racism (van Dijk, 1992) and manifestations of color-evasive racist ideology¹ (Bonilla-Silva, 2017; Annamma et al., 2017). Critical discourse analysis and color-evasive racism frameworks share assumptions of how contemporary racism functions. Bonilla-Silva (2017) conceives of color-evasive racism as an adaptive articulation of racist ideology, with language playing a role in the legitimation of that ideology. Van Dijk (e.g. 1992, 2011, 2015) and other critical discourse analysts (e.g. Paltridge & Hyland, 2012; Reisigl & Wodak, 2000; Wodak & Meyer, 2001) understand discourse to be actively involved in creating, maintaining, and transmitting ideologies.

Van Dijk's (2015) schema of the discursive reproduction of power (Figure 1) offers helpful insights into how discourse, ideology, and power relate to one another and help guide the

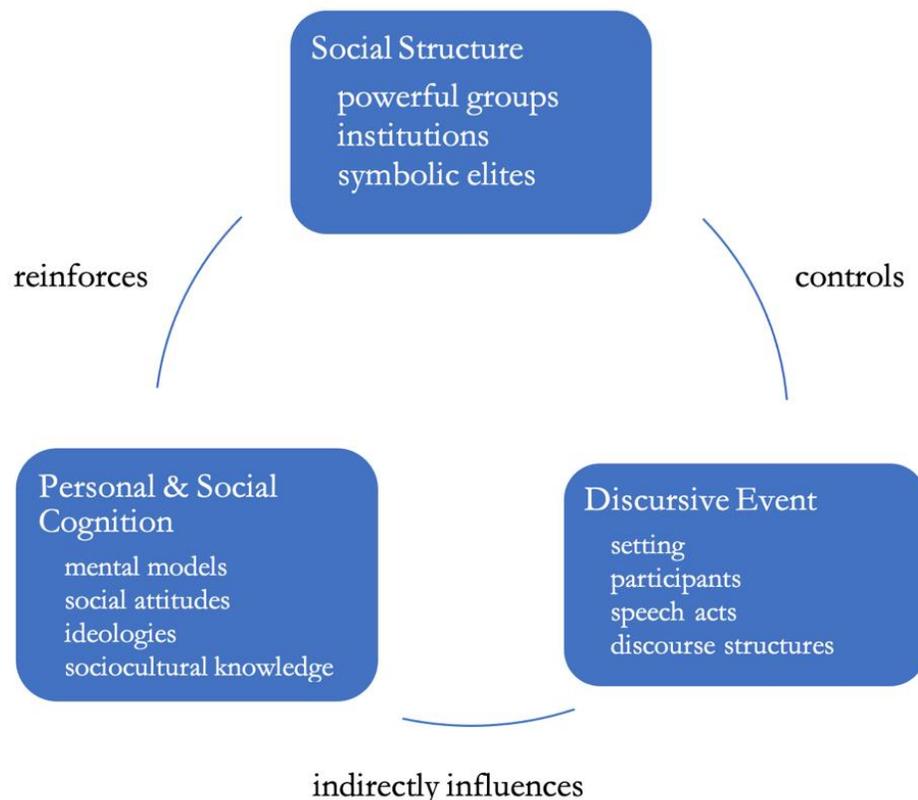
¹ Following Annamma and colleagues (2017), we choose to utilize the term color-evasive to avoid ableist connotations implied by the original terminology.

interpretation of our findings. The existing social structure, consisting of powerful groups, institutions, and symbolic elites, control the contexts (e.g. setting, participants, speech acts) of communicative events. In the case of our study, the legislature controls the setting and processes guiding the discourse, and the Republican majority controls the invited witnesses. The discourse of these events, including specific discursive acts like denials of racism, influence personal and social cognition. These cognitions then reinforce the existing social structure and reproduce power imbalances. Within this model, discursive strategies are a key reflection and contributor to the mental models (“frames” in Bonilla-Silva’s conception) by which people interpret information and inform their actions. Using this conceptual framework, we understand denials of racism to be one of many social actions maintaining color-evasive racist ideology and reproducing hierarchies of racial domination.

Insights from the ideology we are studying, color-evasive racism (Annamma et al., 2017; Bonilla-Silva, 2017), guide this research in the development of research questions and in the analytical plan. The theory of color-evasive racism maintains that since the Civil Rights movement, efforts to enact racist policies, speech, and behavior use the guise of race-neutrality to disguise intent. As a result, racist intentions and policy outcomes became more difficult to clearly identify by the public, and racism is more easily legitimated as normal and natural. This normalization of racism serves to reinforce the broader system and structures of white supremacy.

Figure 1

The Discursive Reproduction of Power



Note: Developed from van Dijk (2015).

In both its original conception (Bonilla Silva, 2017) and later rearticulation (Annamma et al., 2017), color-evasiveness is understood to be a racial ideology, meaning that it is a set of cultural beliefs and constructed meanings which explain existing racial social structures. Bonilla-Silva (2017) argued that color-evasiveness has become the dominant racial ideology of the general population in the United States and can be identified in both right and left leaning political parties. Color evasiveness has been empirically observed in the discourse of progressive media (Bell, 2019). The color-evasiveness framework works harmoniously with critical discourse analysis, as Bonilla-Silva (2017) specifically notes language and communication play a key role in the legitimation of racial ideology.

One component of this theory is the “frames” of color-evasive racism, the sense-making mechanisms of racial ideology. These are comparable to mental models described by van Dijk (2015) in his theorization of discourse and ideology. Bonilla-Silva (2017) conceptualized the four frames of color-evasive racism as the predictable ways in which white people make sense of race and racism in a supposedly “post-racial” world. The most important of these frames is *abstract liberalism*, which Bonilla-Silva considers to be foundational to the new racial ideology. Abstract liberalism pulls together ideas from political liberalism and economic liberalism to explain racial outcomes. This frame is marked by strong commitments to ideas of meritocracy and equal treatment, which are then used to oppose equity efforts on the basis of being “unfair” (e.g. “Students of color should not receive unfair advantage in college admissions”). The second frame, naturalization, explains racist outcomes as the results of natural occurrences (e.g. “Black people don’t live in this neighborhood because they like to be around people like themselves”). The third frame, cultural racism, emphasizes the supposedly deficient cultures of people of color as explanations for their social standing (e.g. “Mexican parents do not value higher education”). The final frame, minimization of racism, downplays the role of race in society (e.g. “Racism is not as bad as it used to be”).

Van Dijk (1992) argues that denials of racism are among the defining features of discourse in contemporary racism. Discursive strategies used to deny racism serve an essential function of legitimating racist ideology while also demonstrating that tolerance is understood to be an important social norm. These denials function to protect the dominant group and frame anti-racists as the truly racist actors. Additionally, denials of racism serve as a containment strategy to control resistance. These strategies normalize and legitimate racist policymaking decisions and reinforce white supremacist structures.

The specific strategies explored in this work emerge from van Dijk’s (1992) examination of news media and parliamentary discourse in the United States and Europe. These forms of denial, as operationalized by van Dijk (1992), are rarely explicit denials of racial intent. Rather, they are discursive maneuvers which distance speakers from responsibility for racial intent. This less direct approach is consistent with the indirect ways in which color-evasiveness manifests in discourse, through vague language operating as “rhetorical shields” and “discursive buffers” (Bonilla-Silva, 2017, p. 81).

Using this conceptual framework, we seek to understand the discursive mechanisms by which racism was enacted and resisted in legislative discourse on anti-CRT and anti-DEI bills. Accordingly, we seek to understand how denials of racism were employed in Texas’s legislative discourse on anti-DEI and anti-CRT bills, identify how these discursive choices reinforced color-evasive racism, and how policy actors resisted both denials of racism and color-evasive racist ideologies.

Prior Literature

This study builds upon these frameworks and contributes to the history of reactive racist policies in U.S. education. It particularly adds to emerging research on the backlash against critical race theory, diversity equity and inclusion programs, and other elements of higher education which are perceived as benefitting minoritized groups. Several scholars studying this backlash have tied these efforts to patterns of racial progress throughout U.S. history (Chapman, 2023; Harper, 2023; Solorzano, 2023). As Derrick Bell (2018) observed, minoritized populations struggle to achieve “temporary ‘peaks of progress,’” with advances fading as racial dynamics adapt to uphold white dominance (p. 373). These peaks of progress, likewise, can only be adopted when converging with white interests and where compatible with “The American ‘civil religion’” of abstract liberalism (p. 254). Racial progress, like the emancipation of enslaved Black people, is swiftly followed by racial backlash, like Jim Crow policies.

Racial backlash is a key feature in the scholarship on color-evasive ideology following gains from the Civil Rights movement. Omi and Winant’s (2014) foundational work on racial formation in the United States identifies color-evasiveness as one of the key mechanisms of racial backlash. They argue that strategies aimed at containing racial equality in the post-Civil Rights era followed a clear sequence. First code words were used to channel white anger and stoke racial fear. Secondly, accusations of reverse racism were used to deracialize discrimination, thus absolving white people of responsibility and delegitimizing race-based reform policies as inherently discriminatory. Finally, color-evasive rhetoric foregrounded American nationalist identity and unity across racial lines. Although Omi & Winant (2014) focus their work on broader U.S. racial policies such as the gutting of the New Deal, a broad body of scholarship documents similar effects in education.

Although students of color were largely locked out of higher education through *de facto* and *de jure* segregation and unequal K-12 schooling (e.g., Donato & Hanson, 2012; Noboa-Rios, 2019), evidence of reactionary racist policy is apparent throughout the history of U.S. higher education. For example, when a high proportion of Jewish students earned admissions through standardized testing in the early 1900s, Ivy League institutions adopted color-evasive policies that excluded Jewish students using interviews, leadership measures, and letters of recommendation (Karabel, 2006). These admissions policies specifically leveraged aspects of abstract liberalism, such as “merit,” to craft color-evasive mechanisms that upheld the dominance of wealthy white protestants. In the post-Civil Rights era, racial progress has been pushed back through color-evasive policies that weaken desegregation efforts (e.g., Justice, 2023) and services for English language learners (e.g., San Miguel & Donato, 2009), dismantle ethnic studies curriculums (e.g., Howerton, 2024), and challenge affirmative action (e.g., Garces, 2020). In many of these cases, white hegemony has been protected using accusations of reverse racism, fairness and pragmatism, and other racism denial strategies.

Emerging research suggests that opposition to CRT and DEI in education represents a “new face on an old practice” to uphold white supremacy through public education (Miller et al., 2023, p. 140). Research identifies anti-CRT and anti-DEI efforts as fear-mongering responses to the racial reckoning of 2020 following the murder of George Floyd (Harper, 2023; Matias, 2023; Miller et al., 2023), which reinforce color-evasive ideologies in education (Scussel & Esposito Norris, 2023). This argument seems rather coherent given the public discussion of systemic racism and increase in institutional supports for DEI programming following Floyd’s murder (Hernández, 2024). These bills are further situated within a decade of efforts to dismantle anti-racist efforts, from the 1776 Project to the legal narrowing of affirmative action, which have been explained by anxieties over growing demographic diversity (Embrick et al., 2020) and racial resentment stirred by white economic struggles (Bonilla Silva, 2017),

Research on the racial dimensions of discourse in these legislative battles has demonstrated in the importance of language to understanding these bills. Linguists have noted the political utility of the phrase “critical race theory” as a political weapon (Beaver & Stanley, 2023). In a critical discourse examination of anti-CRT bills, Jones and Briscoe (2023) found that the text of the bills uphold white dominance. In a similar examination of 53 bills and 26 statements of supporters of anti-CRT bills, Hazel (2023) found that discourse models based on neoliberalism, nationalism, color-evasiveness, and law as morality were operationalized to justify the bills and deny systemic racism. Accordingly, we seek to investigate the role of racism denial as a discursive act in the maintenance of racist ideology during hearings laying out the intent of the bills. A deeper understanding of the role of denials provides insight into how current policy work upholds and perpetuates ideologies of racial domination.

Study Design

Methods

This study uses critical discourse analysis (CDA) along with code co-occurrence to investigate our research questions. CDA interrogates the role of discourse in both reflecting and reproducing social inequality, and it illuminates the ideologies shaping and shaped by discourse (Wodak & Meyer, 2001). CDA is highly relevant to the study of policy issues, particularly in legislative contexts in which ideologies actively contest (van Dijk, 1992). CDA has been utilized to study higher education policy issues concerning the production and reproduction of racism in policy contexts (e.g. Felix & Trinidad, 2020) and is being used to study the recent wave of legislative texts banning CRT (Hazel, 2023; Jones & Briscoe, 2023).

Key Linguistic Terminology

We seek to write for an education policy audience and recognize that this audience may not be well versed in linguistics. Given our methodology, we will refer to terms derived from linguistics. The most important terms for understanding our work are described below.

Discourse

In keeping with the theoretical and methodological roots of critical discourse analysis, we conceptualize discourse in this paper as both language-in-use and social action (van Dijk, 1997). As language in use, discourse reflects social, political, and cultural formations. As a political action, discourse is language shaping social, political, and cultural orders. Discourse as a social action does ideological work, meaning that the language in use not only conveys meaning but also transmits ideologies (Fairclough & Wodak, 1997; van Dijk, 1997; Wodak & Meyer, 2001). Importantly, discourse is just one social practice among many, and accordingly needs to be understood alongside other social actions (Given, 2008).

Presuppositions

Presuppositions refer to the implicit assumptions and background information that speakers and listeners take for granted during communication (Beaver & Stanley, 2023). These assumptions are embedded in language and are a powerful tool for influencing attitudes and beliefs without making explicit assertions. For example, questions with presuppositions can introduce information subtly, and people often interpret them charitably, accepting the implied assumptions as true without significant reflection (Beaver & Stanley, 2023). Presuppositions are crucial in political rhetoric and propaganda, allowing speakers to subtly bias questions and affect hearers' attitudes without overtly

stating their intentions. They also reflect the collective beliefs and ideologies of a community of practice, shaping the way political discourse is perceived and understood (van Dijk, 2015). In essence, presuppositions are a hidden but influential force in political discourse, shaping public opinion and ideologies.

Data Collection

Data for this study was drawn from a larger project using ethnographic work focused on educational bills introduced during Texas' 88th legislative session in 2023. The questions for this project were developed from ethnographic field notes, but we draw our data from transcripts of the Texas Senate subcommittee hearings in which these bills were introduced. These hearings included discourse from senators, invited witnesses, and members of the public, though our analysis is restricted to the senators and invited witnesses (Table 1). Texas Senate Bills 16 and 17 were chosen as they relate to how race is taught in higher education instruction, programming, or professional training and given that the bills were among Lt. Governor Dan Patrick's legislative priorities (Lieutenant Governor of Texas Office, 2023) .

Table 1

Speakers Present in the Anti-CRT and Anti-DEI Hearings

Hearing	Speaker	Speaker Role	Speaker Affiliation
Both	Sen. Brandon Creighton	Chair	Texas Senate (R)
	Sen. Mayes Middleton	Vice-Chair	Texas Senate (R)
	Sen. Phil King	Sub-committee member	Texas Senate (R)
	Sen. Drew Springer	Sub-committee member	Texas Senate (R)
	Sen. Royce West	Sub-committee member	Texas Senate (D)
Anti-CRT	Dr. Carol Swain	Invited witness	Representing Self
Anti-DEI	Dr. Ben Carson	Invited witness	Representing Self
	Sheryl Sylvester	Invited witness	Texas Public Policy Foundation
	Adam Kissel	Invited witness	The Heritage Foundation
	Dr. Richard Johnson	Invited witness	Texas Public Policy Foundation
	Sen. Boris L. Miles	Asked to be present	Texas Senate (D)
	Sen. José Menéndez	Asked to be present	Texas Senate (D)

S.B. 16 (hereafter the anti-CRT bill) proposed new language for the purpose of higher education in the Texas education code and prohibited compelling students “to adopt a belief that any race, sex, or ethnicity or social, political, or religious belief is inherently superior to any other race, sex, ethnicity, or belief.” S.B. 17 (hereafter the anti-DEI bill) prohibited institutions from requiring diversity statements for admissions or hiring purposes, and disbanded DEI offices and personnel. These bills directly relate to race as Dan Patrick indicated their intent was to prohibit the teaching of critical race theory (CRT) and the use of diversity, equity, and inclusion (DEI) policies in public higher education. We use our ethnographic work from S.B. 18, designed to eliminate tenure in public higher education, at times to provide context to our study of the anti-DEI and anti-CRT bills. The text of the anti-tenure bill does not relate explicitly to race but was tied to the teaching of

CRT by Dan Patrick (McGee, 2022) and by state senators during initial hearings when the bill was introduced.

At least one member of the research team was present at all Senate subcommittee hearings introducing these bills as well as at the House committee hearings when the bills were handed off for consideration. Additionally, both researchers were engaged with the legislative session from March 2023 to June 2023. We each assisted different advocacy organizations at the state capital for the legislative session, met with legislators and their staff members in our personal and professional capacities, and attended strategy meetings led by state-level and national coalitions. We took extensive ethnographic field notes on the discourse and social dynamics of the hearings as well as on outside context involving legislators, their staff members, and advocacy groups. After each hearing, we recorded our jottings and reflections (Emerson et al., 2011), which is where our observations on the denials of racism and color-evasiveness first originated.

In addition to ethnographic notes generated during these hearings, we created transcripts from recordings found in the Texas State Senate video archives (The Texas Senate, n.d.). We used an AI transcription service and edited the transcripts by hand for accuracy. In total, we transcribed and analyzed 157 minutes of discourse between invited witnesses and senators. We do not analyze the text of the bills but rather the discourse occurring about the bills during these hearings.

Data Analysis

In this paper, we use CDA to analyze the transcripts of the Senate Subcommittee on Higher Education's hearings in which the bills are introduced, intent is discussed, expert witnesses are interviewed, and public testimony is heard. Although we only analyze two hearings in this paper, this focus allows us to create a rich case study focused on a bounded setting (Brantlinger et al., 2005). This focus allows us to study a particular aspect of a complex phenomenon (Newman & Houchins, 2018), without necessarily being generalizable to all state-level educational bills with a focus on race (Onwuegbuzie & Collins, 2017).

We coded and analyzed the hearings based on an analytical plan using van Dijk's (1992) discursive strategies for the denials of racism and Bonilla-Silva's (2017) four frames of color-evasive racism. Discursive strategies include 1) positive self-presentation, 2) counterattack, 3) moral blackmail, 4) subtle denials, 5) mitigation, and 6) defense and offense. Examples of coded denials may be found in Table 2. The four frames of color-evasive racism include 1) naturalization, meaning making racism appear normal and natural, 2) cultural racism, meaning ascribing racialized outcomes to cultural deficits, 3) minimization of racism, implying that racism is irrelevant, and 4) abstract liberalism, meaning holding strong commitments to ideas of race neutrality and meritocracy. Examples of coded frames may be found in Table 3.

We coded hearing transcripts using a mixed methods data analysis software and a hybrid approach (Miles et al., 2014). We use deductive coding for research questions 1 & 2, and an inductive approach for research question 3. For our deductive codes, we used codes derived from our conceptual framework. We coded for denials of racism (van Dijk, 1992) and the four frames of color-evasive racism (Bonilla-Silva, 2017).

After our first pass at coding, we created codes using Reisigl & Wodak's (2000) discourse historical approach for the study of racism and antisemitism. We chose to add these codes to enhance validity by ensuring that denials of racism were clearly linked to racist speech or action. These codes include five of the six discursive strategies used in the discourse historical approach: nomination strategies, predicational strategies, argumentation strategies, and perspectivation strategies. The sixth discursive strategy, mitigation, was excluded given that it was already captured

under the mitigation code from the denials of racism. These strategies identify how individuals or groups are discursively constructed, evaluated, and included or excluded.

Table 2

Example Discourse Coded with Denials of Racism

Codes for Denials of Racism	Example Discourse
Moral Blackmail (23) <i>Accusing the opponent of censorship or blackmail</i>	In other words, they're [students are] having to convey things that they don't believe in so their grade won't suffer. (Sen. Middleton, anti-CRT hearing)
Counterattack (68) <i>Attacking those with a contrary view</i>	And I know as a faculty member firsthand, you know what it's like. I gave up my tenured position, my tenured position in 2017. Because of the changes that I saw taking place on university campuses and how hostile it was for conservatives and Christians (Dr. Carol Swain, anti-CRT hearing)
Subtle denials (18) <i>Presupposing doubt</i>	Research also shows that DEI efforts are often worthless or counterproductive and this is national level research... The concept of unconscious bias has largely been debunked. (Adam Kissel, anti-DEI hearing)
Fairness & Pragmatism (14) <i>Combination of fairness, firmness, and pragmatism as justification for racist speech or actions</i>	And we need to prepare people rather than having a situation where we have to leapfrog people into a position that they're not ready for. (Dr. Ben Carson, anti-DEI hearing)
Mitigation (51) <i>Minimizing actions like down toning, using doubt, distance markers, or euphemisms</i>	[A]nybody who's discriminating now on the basis of race is just doing it because they're evil person. It's not because of some inherent belief, we know better than that at this stage of the game (Dr. Ben Carson, anti-DEI hearing).
Nationalist Glorification (30) <i>Placing nation on moral pedestal, racism is elsewhere and the property of others</i>	And that's really the intent of your bill here to make sure that we're, we're encouraging that free speech in our First Amendment rights and all the great things about America (Sen. Middleton, anti-CRT hearing).
Positive Self Presentation (55) <i>Presenting self or group as tolerant and fair</i>	I think that when you see the contents of the bill, members, you'll see that Senate Bill 17 does not harm diversity efforts, but it does remove divisive agendas that have been seen to be carried out through DEI, units, personnel and certain departments in Texas (Sen. Creighton, anti-DEI hearing).

We coded at the paragraph level following three questions: 1) What evidence of racism is present in the discourse, using Reisigl & Wodak (2000) as a guide? 2) How do policy actors employ denials of racism? and 3) What frames of color-evasive racism are apparent in the text? Not all paragraphs included codes for each category. Once each hearing was coded, we completed a memo for each hearing focusing on the research questions and identifying how coding confirmed, extended, or contradicted our ethnographic observations. We met weekly for a total of 9 weeks to ensure interrater reliability and to discuss findings. We additionally utilized code co-occurrence charts available in our coding software to supplement our findings for research question 2.

Table 3

Samples of Discourse Utilizing Frames of Color-Evasive Racism

Codes for Color Evasive Racism	Example Discourse
Naturalization (8)	And if the above is not enough, there is blame placed on white Americans for slavery when we know that slavery has been part of the human experience since time immemorial. (Dr. Carol Swain, anti-CRT hearing)
Cultural Racism (0)	<i>No discourse coded</i>
Minimizing Racism (26)	[A]t the end of the day, we actually do start out every, every person is given the same 24 hours in a day. Whether we like it or not, whether we like it or not. Every person is given the same 24 hours in a day. Now what you do with those 24 hours will make all the difference in the world. (Dr. Richard Johnson, anti-DEI hearing)
Abstract Liberalism (42)	So what I think we need to recognize is that merit is important... And I don't think Senator West or anybody else would advocate that we put people in those positions that are not fully qualified to do them. (Dr. Ben Carson, anti-DEI hearing)

Positionality

We engage in this research from a critical epistemological position. We adopt this positioning given the importance which power, marginalization, and stratification play in our research questions, conceptual framework, and methods. This epistemological position provides a lens which understands the world as intrinsically shaped by power (Capper, 2019). We adopt this epistemological position as a personal and political commitment to the marginalized (Ladson-Billings, 2000), and our work unapologetically stands in solidarity with those most oppressed by policy in our state.

We position ourselves as insider-outsider researchers in the legislative space. Although we worked with legislative staff and advocacy groups during the sessions, we experienced the somatic toll of hostility in the halls of power as Latina/mixed/Mestiza women engaged in critical scholarship. Although our racial and gender identities place us as beneficiaries of DEI efforts, we also recognize existing racial dynamics at play in the legislative session for which we have neither the lived experience nor trained expertise to fully understand. These dynamics include anti-blackness, antisemitism, and transphobia. Although we report on a few of these dynamics in our findings, we also recognize our limitations as researchers and encourage future study by scholars well versed in appropriate theories.

Findings

We found that policy actors supporting the anti-DEI and anti-CRT bills utilized denials of racism to maintain abstract liberalism and minimize racism. First, policy actors engage in a multitude of denials of racism even while engaging in racist speech. Notably, senators supporting the anti-CRT and anti-DEI bills encourage denials of racism from witnesses using presuppositions in their lines of questioning. Second, although many types of denials reinforce color-evasive racism in the discourse, mitigation plays a notable role in reinforcing the minimization of racism particularly when Black witnesses draw on their identities to downplay racism. Additionally, abstract liberalism undergirds the argument for banning CRT and DEI, and frequently coincides with nationalist glorification and counterattack strategies that frame CRT and DEI as discriminatory. Finally, discursive resistance from policy actors primarily focused on making presuppositions explicit. Surfacing presuppositions allowed those engaged in resistance to challenge underlying assumptions and reduce harm.

Denials of Racism in the Legislative Discourse: The Outsized Role of Presupposition

Denials of racism were frequently employed by policy actors using a variety of different discursive strategies. In our coding, we found multiple examples of all seven strategies in our codebook across hearings for both the anti-DEI and anti-CRT bills. Although much could be said about each of these denials, we focus our findings on differences between how senators and witnesses engaged with these denials of racism, particularly as the manifestation was not noted in our primary literature.

In hearings for both the anti-CRT and anti-DEI hearings, senators used presuppositions in questioning to indirectly employ denials of racism, while the witnesses engaged with denials of racism more directly. Senators' questions were often laden with presuppositions, meaning that notions assumed the discourse between the senators and the responding witnesses. We found that senators used these presuppositions to deny racism. One of key goals of denials of racism is to distance oneself from any suggestion of racist intent and actions (van Dijk, 1992). By loading questions with implicit propositions denying racism, senators increased the distance between themselves and the institution of the legislature and the racist actions. This use of presuppositions allowed senators to maintain a positive self-presentation and plausible deniability of racist intent or action.

Although presuppositions occur in discourse in a variety of forms (Beaver & Stanley, 2023), the senators frequently made use of presuppositions in their questions. Senators used questions that were heavily loaded with presuppositions to minimize the relevance of racism. These presuppositions functionally served to 1) to prepare the argument response for the witnesses, and 2) to provides witnesses an entry into the senators' notions on the topic. In the following excerpt between a senator and an invited witness in the anti-CRT legislative hearing, we underline presuppositions and mark counterattack from the invited witness with bolded text. As a reminder, counterattack is one of van Dijk's (1992) denials of racism, which protects the positive presentation of self by attacking others. This strategy involves painting those engaged in anti-racism in negative terms, in this case, as anti-American Marxists.

SENATOR CREIGHTON: Dr. Swain, why would CRT be taught overall on our college campuses? You mentioned it's widely published and well known that it's rooted in Marxist theory. You know, what are the basic tenets of critical race theory?
 DR. CAROL SWAIN: Well, first of all, **it's [CRT] been around for a long time. It grows out of Cultural Marxism.** Many people are familiar with economic Marxism associated with Karl Marx... And it has been a philosophy like there are many different philosophies that have been taught on college and university campuses.

What's dangerous about it is that it is a theory [emphasized]. It's a theory that someone thought up, but it's been taught and implemented as if it was true. And it's **not based on truth.** In fact, it's a conflict model. **It cannot bring about racial reconciliation and healing.** And I think the **ultimate goal is to bring down the United States** if you actually studied Marxism, and what they say about their intention.

In the excerpt above, Senator Creighton made the presupposition that CRT is a mainstream theory that is taught throughout college campuses regardless of academic discipline, that CRT originates from Marxist theory, and that the Marxist origins of CRT are widely known. The witness, Dr. Carol Swain, then engages in the discursive strategy of counterattack, labeling CRT and those who use it as dangerous and politically violent. Although Senator Creighton did not share his perspective on the issue at hand directly, we gain a sense of his sentiment about CRT indirectly due to the presuppositions embedded in the questions he asked. The presupposition was used as a mechanism for the senator to prepare the argument for the witness. Even if the senator did not share his own insight on the topic directly, the witness, Dr. Carol Swain answered the question in a manner that indirectly reflected the senator's beliefs on the topic. By having the witness answer questions that were loaded with presuppositions, the senator is also engaging in acts of denying racism but in a more circuitous manner.

In contrast, the witness directly engages in denials of racism through the discursive strategy of counterattack. The counterattack in the witness's statement constructs CRT as a dangerous ideology creating racial division in higher education and undermining the future of the United States. In other words, the witness enters into the reality presupposed by Senator Creighton and denies racism in the current bill by depicting CRT as the prejudicial instigator.

Another example of how policymakers utilized presuppositions with other witnesses can be found in the hearing for the anti-DEI bill. Both senators and witnesses employ denials of racism either directly or indirectly. In the following dialogue, we underline presuppositions about DEI policies, and we mark discursive strategies in bold which were used to deny racism.

SENATOR CREIGHTON: Yeah, Adam, I was going to ask you if you know, what's the legality of mandating to prospective employees to sign a loyalty oath on equity? Prior to being considered for hire?

ADAM KISSEL: It's very **likely unconstitutional.** I'm not an attorney, but I'm attorney adjacent because of my work. And we again, I, we've, in, from the 1950s on we said, we **cannot make a professor reveal that they're a member of the Communist Party. Can't even really ask about political affiliation in that way because it leads to viewpoint discrimination, and we may not like someone's point of view, but that can't be a reason for discriminating against someone.** So if it's a voluntary statement, that's probably not going to be unconstitutional, but within your rights as the legislature to enforce.

In the excerpt, we can see how Senator Creighton baked presuppositions in the questions directed toward Adam Kissel. Senator Creighton presupposes that DEI policies require "loyalty oaths," meaning a required allegiance to a particular political position as a condition of employment in higher education. The presupposition prepares the witness to respond in a reciprocal manner, while also creating distance between the senator and Kissel's counterattack.

Adam Kissel, the witness, enters the discourse via the presupposition and immediately responds to how loyalty oaths, or in this case DEI policies, are unconstitutional. He utilizes two

denials of racism, counterattack and moral blackmail, to construct DEI policies as an infringement of American first amendment rights. Counterattack accuses opponents of discriminatory behavior and moral blackmail claims that anti-racists are silencing speech (van Dijk, 1992). The invited witness builds the argument by drawing comparisons to the Red Scare. Although the witness frames his argument as protecting university professors, the discursive strategy of moral blackmail is being utilized to argue that universities are censoring political ideologies on university campuses. This casts DEI practitioners as the discriminatory silencing professors' ideologies and positions the bill's advocates as protectors of American rights.

In both examples of the dialogue between the senator and the witnesses, the role of presuppositions demonstrates how the senator and witnesses engaged with the denials of racism using discursive strategies such as counterattack and blackmail. Through the mechanism of presuppositions, the senator denied racist intent of both the anti-CRT and anti-DEI bills indirectly, while the witnesses directly immersed themselves in the denials of racism.

Reinforcing Color-Evasive Racist Ideologies

The primary frames of color-evasive racism which appear in the hearings are abstract liberalism and minimizing racism. Although naturalizing racism also appeared a few times throughout the hearings (coded 8 times), abstract liberalism and minimizing racism figured prominently throughout the hearings (coded 42 and 26 times respectively). Below, we explain how denials of racism reinforced these two frames of color-evasive racism and upheld racist ideology and action. Our findings here are informed both by our critical discourse analysis and code co-occurrence.

Weaponizing Abstract Liberalism

We found that abstract liberalism, particularly a hyper-individualistic understanding of equality (Bonilla-Silva, 2017), figured prominently in the hearings and in how the bills were introduced. As a reminder, this cognitive frame focuses strongly on equality based on individual meritocracy. Abstract liberalism was frequently accompanied in the discourse by positive self-presentation and counterattack. Positive self-presentation presents the speaker, institution, state, or nation as fundamentally good, noble, and just (van Dijk, 1992). Counterattack (van Dijk, 1992) is used in the discourse to present DEI practitioners and faculty using CRT as the truly discriminatory parties. We argue that speakers in these hearings constructed themselves as “good” because they held to abstract liberalism, while they used principles of abstract liberalism as the justification for counterattack.

Witnesses in their hearings identified principles of abstract liberalism as a central reason why CRT and DEI were problematic. For example, the witnesses in the anti-DEI hearing voiced their support of diversity and inclusion, with some caveats, but their full disapproval of equity as a concept. Below, we provide a statement from Heritage Foundation representative Adam Kissel illustrating the problems witnesses identified with equity.

ADAM KISSEL: Regarding equity, I wish it were true that it meant fairness and treating each individual as he deserves. It doesn't in practice. Equity means equality of outcome by identity group. For example, that means counting outcomes, like faculty composition, or graduation rates by race, and claiming that disparate outcomes are the result of systemic racism. Then advocating for disparate treatment by race to affect the outcomes. In other words, an outcome-based definition of equity often leads to unlawful discrimination.

In the discourse of the witnesses, the key problem with equity is that it violates the individualism at the heart of abstract liberalism. In this speaker's argument, the key issue is that consideration of equality at the level of a group rather than the level of the individual. Seeking racial equity, then, is constructed as a precursor to "unlawful discrimination."

Illustrating this point, Dr. Richard Johnson used multiple basketball analogies to make points about the difference between equity and equality and utilized positive self-presentation and counterattack throughout. He argued that the segregated Kentucky basketball team was following an "equity model" which determines things based on race, whereas the unsegregated team follows the "equality model."

DR. RICHARD JOHNSON: Kentucky was still following the equity model, predetermined based on race all 12 of their players were white. Texas Western model was following the equality model is six African American players, four white players and two Hispanic players.

... The battle here is equity, the equity model versus the equality model. The equality model has proven to us it has brought us diversity. It has brought us inclusion. It has brought us great value in the United States of America.

In this extended analogy, Dr. Richard Johnson makes use of both positive self-presentation and counterattack. He compares DEI practitioners to segregationists, discursively constructing DEI practitioners as discriminatory, unlawful, and dangerous. He additionally connects the "equality" model to those who practiced integration, inclusion, and diversity and who Made America Great. He thus argues that those who practice the "equality model" and uphold merit and individualism are on the side of people of color. In this example and throughout both hearings, abstract liberalism serves as the foundation for identifying "good" and "bad" actors. This positive self-presentation and counterattack are used to delegitimize the position of DEI practitioners and construct DEI opponents as innocent of discriminatory action.

Black Witnesses, Mitigation Strategies, and Minimizing Racism

As a cognitive frame, minimization of racism suggests that discrimination no longer explains unequal life outcomes for people of color (Bonilla-Silva, 2014). Perhaps unsurprisingly, we found that mitigation was the most common discursive strategy used to minimize racism. In many ways this is intuitive as mitigation strategies downplay the effects racism and deflect responsibility from dominant groups (van Dijk, 1992). However, we found the specifics of *how* mitigation is utilized and *by whom* to be particularly striking in these hearings.

The choice of invited expert witnesses in the anti-CRT and anti-DEI hearings served to specifically minimize the role of racism in constructing this legislation. Expert witnesses are expressly invited by state legislators. Notably, three of the five witnesses invited to speak in favor of banning CRT or DEI practices were Black conservatives. In contrast, SB 18's (the anti-tenure bill) expert witnesses included three white men. This suggests a consciousness about how explicitly race-related bills would be perceived as racially motivated. Senator Hughes even leveraged Dr. Carol Swain's life experiences as part of her credibility, introducing her as "a wonderful American success story" (Anti-CRT bill hearing). Denials of racism, particularly minimizing the role of racism in American life, were delivered for white senators through the discourse of Black witnesses. As noted above, senators used presuppositions baked into questions to encourage Black witnesses to engage in denials of racism themselves. This further distanced the senators from responsibility for the ideas expressed in the discourse and from accusations of racism.

Black witnesses discursively leveraged their Black identities to minimize racism. In the following extracts, we underline phrases where witnesses draw on their identities as Black people who experienced Jim Crow, and we mark discursive acts in bold that minimize racism.

DR. CAROL SWAIN: And I would argue that all of this stuff about America being systemically racist, **it was** systemically racist in 1954 when I was born. I watched **that system collapse** when we passed three major civil rights bills in the 1960s. And so, for Black Americans and racial and ethnic minorities, **I don't think there could be a better time to be alive.** (Anti-CRT bill hearing)

DR. BEN CARSON: Part of the reason I'm so firmly against the DEI agenda is because I grew up in a time when **real racism** did exist, and when inequality **truly was ingrained in our institutions**, but because I saw this America firsthand, I can also say that **that America is gone.** (Anti-DEI bill hearing)

DR. BEN CARSON: One of the things I think we should point out is that in my lifetime, things have changed dramatically in this country, and we should acknowledge that. You know, when I was a kid, and a Black person came on television, in a non-servile role that was a big deal. You called everybody into the living room, "Everybody look. This is really something!" Today in the same lifetime, you know, **Black admirals and generals and CEOs of Fortune 500 companies and heads of foundations.** We've had a **Black president, Black vice president-to say that things have not changed is ridiculous.** We have certainly not reached nirvana. And what we really need to do, again, is sit down and **look at the facts**, look at the things that work versus the things that don't work and be objective about it. (Anti-DEI bill hearing)

In these excerpts, Black witnesses use mitigation strategies to locate racism in America's past as something that does not affect the present. "That America is gone" and the system that upheld discrimination "collapse[d]". The present in contrast is constructed as the best time to be alive for people of color, using Black success stories to suggest discrimination could not play a role in life outcomes in the present. They distance present experiences of racism from "real racism" through casting doubt on whether the experiences are factual, and even suggest that claims of continued racism are "ridiculous." In making these claims, the witnesses pull on their own experiences with discrimination to delegitimize the inequality experienced in the present.

In addition to minimizing present forms of racism, Black witnesses additionally downplayed the severity and intensity of the racism of America's past. In the following excerpts, we bold mitigation strategies which minimize racism.

DR. CAROL SWAIN: But as you mentioned, slavery was you know, it **had been in existence** and was **in the mindset and polluted the mindset of so many**, because **it had been an institution that existed from the dawn of time.** It's often not taught that America was **one of the countries that led the effort**, along with so many other countries in the 1800s, **to rid ourselves of it.** And that **balance** it seems to be lacking in critical race theory as an example, that **only one side of that is the case.** (Anti-CRT bill hearing)

DR. BEN CARSON: We aren't trying to hide the past and nobody says our country has always done everything right. But we will say that **we were founded on noble ideals** and as a people **have continuously worked to live up to them.** To say otherwise is **insulting to black Americans who live under true inequality in the Jim Crow era.** And it is insulting to white Americans to suggest that they are still

somehow perpetrating this inequality through invisible superstructures today, **it is insulting to our nation's history to say that we have not worked to overcome our past mistakes.** And above all, it's insulting to the truth itself. To paint such a **misleading** narrative of our national story. (Anti-DEI bill hearing)

In these excerpts, Dr. Swain and Dr. Carson utilize mitigation strategies to minimize America's relationship to racism. Dr. Swain identifies slavery as a universal feature of human society, having "existed from the dawn of time" and in the "mindset of so many," decreasing America's responsibility in perpetuating race-based chattel slavery. Both witnesses additionally make use of nationalist glorification strategies to portray Americans as leaders in securing liberty, actively working to live up to "noble ideals." They both additionally argue critical theories blow racism out of proportion. The suggestion that this might still be happening is insulting, misleading, unbalanced, unfair. This discourse serves to shift responsibility away from dominant groups, particularly white Americans, and minimize the role that slavery and racism played in American history. Notably, several other denial strategies appear in this text, including counterattack and nationalist glorification.

The minimization of racism through denials of racism serves to bolster racist speech and action. By utilizing Black witnesses, advocates for the anti-CRT and anti-DEI bills weaponized Black bodies and discourse to delegitimize the systemic racism combatted by CRT and DEI. They discursively construct the theory and programming as unnecessary, irrelevant, ridiculous, and even harmful. It likewise invites the listeners to doubt contemporary experiences of racism, particularly of Black people. These experiences are portrayed as ridiculous in light of "real racism" and undeserving of accountability in either higher education or larger society.

Discursive Resistance: (Re)Shaping Social Cognition

Although senators and invited witnesses denied racist intentions behind anti-CRT and anti-DEI bills, opposing policymakers resisted these denials by uncovering implicit assumptions in the discourse. Given that most ideological work in discourse is implicit (van Dijk, 2015), making presuppositions and implications explicit also allowed senators to engage with color-evasive racism and its concurrent frames. Presuppositions, as previously noted, often shape a shared reality within discourse, and they are typically accommodated without the level of awareness typically required for other speech acts (Beaver & Stanley, 2023).

Policymakers opposing the anti-DEI and anti-CRT bills identified these presuppositions, made them explicit, and subsequently contested them. While they could not prevent the bills from advancing out of committee and eventually becoming law, their discursive efforts limited harm to higher education professionals in future litigation and provided evidence of racism for challenging the bills in court. We focus our analysis on Senator West, the only committee member opposing the bills. Two democratic senators who were not on the committee requested to sit in for the anti-DEI hearing but had fewer interactions to analyze.

Senator West, the lone democrat on the Senate Subcommittee on Higher Education where the bills were introduced, challenged implicit assumptions in witness discourse through direct questioning. Throughout both hearings, he asked witnesses to explicitly identify how they were conceptualizing terms. Below, we provide a few of the most concise examples of this line of questioning from Senator West:

What do you mean when you say stifling of academic freedom? (Anti-CRT bill hearing)

What is your definition of DEI? (Anti-CRT bill hearing)

What about affinity groups? (Anti-CRT bill hearing)

So as for your definition then a fraternity is an affinity group? (Anti-CRT bill hearing)

Okay, now what about what's your definition of equity? And is that a bad thing or good thing? (Anti-CRT bill hearing)

By asking for definitions, Senator West obtained information about how concepts were being defined and the mental models and ideologies underlying the bills. Once these conceptions were made explicit, he was able to then challenge them.

Surfacing presuppositions allowed Senator West to challenge the race-neutral impacts of the bills insisted on by the bills' supporters. When introducing the anti-CRT bill, Senator Hughes presented the bill as a neutral effort to ensure freedom of thought with no intended racial repercussions. Likewise, Senators Creighton, the bill author for the anti-DEI bill, repeatedly assured the committee that, "We all value diversity." However, Senator West pressed witnesses to voice underlying propositions that undermined the purported race-neutral intent of the bills.

As an example, we provide an abbreviated version of a lengthy exchange between Dr. Carol Swain and Senator West on affinity groups. We underline places where Senator West works to bring implicit assumptions into the foreground. We bold where those propositions begin to emerge. Ellipses in this passage indicate that additional discourse was cut for the sake of brevity.

SENATOR WEST: Joining an affinity group within itself doesn't keep me from being a part of the community. Correct? Is that correct?

DR. CAROL SWAIN: It depends. **What type of affinity group it is.**

SENATOR WEST: Like a fraternity.

DR. CAROL SWAIN: A fraternity is **not the same as, as the groups we're talking about.**

...

SENATOR WEST: So my point is this then as relates to affinity groups, just because you're a member of an affinity group doesn't necessarily correlate with you not being a member and interested in the entire community. Correct?

DR. CAROL SWAIN: It shouldn't. Because the whole **purpose of integration** was to bring people together so they can learn from one another.

...

SENATOR WEST: And so, what you said that your experience has been, students have joined affinity groups don't have any real allegiance to the entire community?

DR. CAROL SWAIN: That's not what I meant to convey. If that's what you heard.

SENATOR WEST: That's what I heard, so what do you really mean [crosstalk]

DR. CAROL SWAIN: [crosstalk] That's not what I want to convey. What I have found with, you know, **with the group identities on campus** that we have now, is that a lot of times demands are being made. **The group's segregating themselves. We have a resegregation.** There are some colleges and campuses now where you can take course sections with **members of your racial and ethnic group.**

Through his line of questioning, Senator West surfaced the underlying preoccupation with race as the primary issue of concern with group association. Through their exchange, Senator West surfaces the opposition's proposition that racial affinity groups undermine campuses in a way that gender affinity groups or academic affinity groups do not. This exchange, as well as an exchange about diversity, make clear that the witness opposes programming and instruction that support integration

without assimilation to white norms. Once surfaced, Senator West was able to challenge the proposition.

Likewise, in an exchange during the hearing for the anti-DEI bill, Senator West asked invited witnesses for the anti-DEI bill to answer, one by one, whether they support diversity, inclusion, and equity in principle. Three of the four witnesses voiced support for diversity, though a witness from the Heritage Foundation conceded only support for “viewpoint diversity.” When Senator West asked about his support for ethnic diversity, the witness responded, “For what purpose, sir?” Although likely unintended (Senator West seemed taken aback in the exchange), Senator West surfaced an underlying belief that people of color served no “purpose” and were not essential “for the sake of a college thriving.” Senator West’s questioning surfaced underlying racial ideology, but perhaps more importantly, broke the taboo of inclusiveness (van Dijk, 1992), which denials of racism are intended to avoid. This likely altered how hearers made sense of his arguments and also provided evidence of intent for future legal challenges to the bill. Indeed, we were able to hear audible gasps and murmuring from members of the public in the room.

At times, challenges to the implicit assumptions in the discourse pushed back against the frames of color-evasive racism. For example, much of the argumentation for the bills relied heavily on abstract liberalism. Dr. Richard Johnson’s opening statement against DEI invoked Dr. Martin Luther King Jr.’s dream as part of an abstract liberalism argument reifying individualism and merit. Further, he later utilized abstract liberalism to compare practitioners of DEI (those following what he calls “the equity model”) to segregationists for considering racial groups in assessing outcomes instead of judging individual merit in a color-evasive way. Much later in the hearing, Senator West referenced the same quote from Dr. King but challenged the idea that color-evasiveness has resulted in actual equal opportunity.

SENATOR WEST: I want to make certain as Dr. King is always - Let's judge a person by the content of that character, their merit, okay? But in many instances, and help me with this, African Americans, Latinos and others, haven't been able to even get into the room to be considered for jobs. [snaps from audience] Okay? Am I right about that?

In this discursive act, Senator West corrected the presuppositions of expert witnesses aligning the bill’s supporters with Civil Rights heroes and DEI supporters with segregationists.

Discussion

Critical race theorist Derrick Bell (2018) argued that racism can only be delegitimated when it is accurately understood in its specifics. Our study sought to understand how denials of racism function in a state legislative context, how they reinforce color-evasive racist ideology, and how these discursive strategies are challenged and disrupted. Through a critical discourse analysis of public hearings for two Texas Senate bills banning critical race theory and diversity, equity, and inclusion programs in public higher education, we found that policy actors frequently engaged in denials of racism despite engaging in racist speech. Additionally, these discursive strategies were used to reinforce color-evasive frames, particularly the minimization of racism and abstract liberalism. We focused our analysis of discursive resistance on Senator West, who challenged denials of racism by asking witnesses to verbalized implicit propositions in their arguments.

Our findings appear to be broadly consistent with the few empirical studies of rhetoric employed in other states’ anti-CRT and anti-DEI policies for higher education (Hazel, 2023; Jones & Briscoe, 2023). Although our frameworks are different, our findings on the use of color-evasiveness frames mirror the discourse models of color-evasiveness and neoliberalism found by

Hazel (2023). Like Hazel, we find the important interrelationship between these ideological frames and denials of racism. These findings appear to be consistent with historical patterns of racial backlash, both generally (Omi & Winant, 2014) and in specific cases of rolling back policies perceived as benefitting minoritized students (e.g. Howerton, 2024). Our study contributes an example of discursive resistance to anti-CRT and anti-DEI bills and suggests ways to disrupt color-evasiveness and racism denial. Future research might empirically examine discursive strategies of resistance in the policymaking process, in terms of what specific strategies are used as countermoves and which strategies create incremental changes in the policymaking process.

Another contribution of our findings relates to how racism denial manifests in policymaking discourse. Departing from van Dijk's (1992) initial work on denials of racism and Bonilla Silva's (2017) examination of color-evasive rhetoric, our findings highlight how denials of racism can be embedded in questioning through implications and presuppositions, further distancing legislators from responsibility for racist utterances. Presuppositions in questioning are particularly nefarious given the weaponization of Black witnesses observed in our case. By teeing Black witnesses up to deliver denials of racism, white senators discursively protect their positive self-presentation and the legislature's legitimacy while minimizing the role of race in the hearings.

Even within a political moment characterized by increased tolerance for overtly racist politics (Embrick et al., 2020), advocates of anti-CRT and anti-DEI legislation use the rhetorical shields of racism denial while enacting regressive policies. Our conceptual framework, based on van Dijk's (2015) discursive reproduction of power, offers several insights into why this might occur. First, a critical discourse analysis allows us to situate our findings within an understanding that ideology is part of social cognition and is socially learned (van Dijk 1992; Wodak & Meyer, 2001). With this approach, rhetorical choices, such as the use of denials and color-evasive frames, are best understood as reflecting deeply embedded social constructs in American political life rather than merely as the choices of individuals.

Secondly, discourse is understood to be both a performance of ideology and a crucial tool for maintaining ideology (van Dijk, 1992). Thus, the denials of racism observed in this study might serve to resonate (Beaver & Stanley, 2023) with the primary ideology of policymaking elites--color-evasiveness--held by members of both major U.S. political parties (Bonilla Silva, 2017). By situating anti-DEI and anti-CRT efforts within the accepted sensemaking mechanism of the post-Jim Crow era, senators and invited witnesses distance these bills from overt racism even while enacting regressive policies. The use of color-evasive frames makes these policy actions appear reasonable and logical, distancing the bills from association with overt racism.

This study has limitations in terms of generalizability given that the discourse we studied was limited to a very specific context (the Texas senate subcommittee on higher education). However, we believe that this research provides granular insight into discursive processes being carried out throughout the nation. Three of the five invited witnesses are not from Texas, and the anti-DEI movement has been coordinated through a national network of operatives which share bill text and talking points (Confessore, 2024). Future research might explore the consistency of these findings across states. Additionally, researchers might explore how denials of racism are employed in other policy contexts such as school board meetings or university statements on CRT or DEI.

We also recognize that insights from scholars specializing in anti-blackness can bring additional theoretical insights to the use of Black witnesses in race-based legislative contexts. Given our positionalities and expertise, we did not choose this framework but believe future research is needed to identify the ways anti-blackness is present and operationalized in the fight against CRT and DEI.

These findings contribute to emerging literature on racial ideologies underlying the current onslaught of legislation against racial equity efforts in education. Our findings specifically contribute to the role of discursive strategies in enacting racist ideology and means for disrupting these strategies. This contribution may inform policy actors interested in combatting the legitimation of racism. Although we cannot generalize our findings outside this specific case, we suspect we are documenting a phenomenon that is occurring nationwide, particularly given the national coordination of attacks on CRT and DEI (Confessore, 2024; CRT Forward, n.d.). Just as the attack on diversity spilled over from K-12 to higher education, we have not seen the end of racist legislative attacks on education, either in Texas or nationally. Documenting and exploring the denials of racism used in this very specific case, how they reinforce color-evasive racism, and the strategies of resistance used against them, equips scholars and advocates to recognize these same patterns in the next legislative session and in legislative attacks fifty years from now.

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References

- Annamma, S. A., Jackson, D. D., & Morrison, D. (2017). Conceptualizing color-evasiveness: Using dis/ability critical race theory to expand a color-blind racial ideology in education and society. *Race Ethnicity and Education*, 20(2), 147-162.
<https://doi.org/10.1080/13613324.2016.1248837>
- Beaver, D., & Stanley, J. (2023). *The politics of language*. Princeton University Press.
<https://doi.org/10.1353/book.107028>
- Bell, D. (2018). *Faces at the bottom of the well: The permanence of racism*. Hachette UK.
- Bonilla-Silva, E. (2017). *Racism without racists: Color-blind racism and the persistence of racial inequality in the United States*. Rowman & Littlefield.
- Bradner, E. (2023, January 17). *Texas Gov. Greg Abbott previews push for school choice and property tax cuts in third inaugural address*. CNN. <https://www.cnn.com/2023/01/17/politics/greg-abbott-inaugural-address-school-choice-property-tax/index.html>
- Brantlinger, E., Jimenez, R., Klingner, J., Pugach, M., & Richardson, V. (2005). Qualitative studies in special education. *Exceptional Children*, 71(2), 195–207.
- Burch, A. D. S. (2023, May 29). Texas lawmakers pass ban on D.E.I. programs at state universities. *The New York Times*. <https://www.nytimes.com/2023/05/29/us/texas-dei-program-ban.html>
- Capper, C. A. (2018). *Organizational theory for equity and diversity: Leading integrated, socially just education*. Routledge. <https://doi.org/10.1177/001440290507100205>
- Chapman, T. K. (2023). *Censorship? Indoctrination? Erasure? Critical race theory in teacher education* [Invited speaker session]. AERA Annual Meeting, Chicago, IL.
- Confessore, N. (2024, January 20). ‘America is under attack’: Inside the anti-D.E.I. crusade. *The New York Times*. <https://www.nytimes.com/interactive/2024/01/20/us/dei-woke-claremont-institute.html>
- CRT Forward. (n.d.). *CRT Forward Tracking Project*. Retrieved August 26, 2023, from <https://crtforward.law.ucla.edu/map/>

- Dan Patrick [@DanPatrick]. (2022, February 15). *I will not stand by and let looney Marxist UT professors poison the minds of young students with Critical Race* [link attached] [Tweet]. Twitter. <https://twitter.com/DanPatrick/status/1493694009600053250>
- Donato, R., & Hanson, J. (2012). Legally white, socially “Mexican”: The politics of de jure and de facto school segregation in the American Southwest. *Harvard Educational Review*, 82(2), 202–225. <https://doi.org/10.17763/haer.82.2.a562315u72355106>
- Embrick, D., Carter, J. S., Lippard, C., & Thakore, B. (2020). Capitalism, racism, and Trumpism: Whitelash and the politics of oppression. *Fast Capitalism*, 17(1), 203–224. <https://doi.org/10.32855/fcapital.202001.012>
- Emerson, R. M., Fretz, R. I., & Shaw, L. L. (2011). *Writing ethnographic fieldnotes*. University of Chicago Press. <https://doi.org/10.7208/chicago/9780226206868.001.0001>
- Fairclough, N., & Wodak, R. (1997). Critical discourse analysis. In T. A. Van Dijk (Ed.), *Discourse as social interaction* (Vol. 2, pp. 258–284). SAGE Publications, Inc.
- Felix, E. R., & Trinidad, A. (2020). The decentralization of race: Tracing the dilution of racial equity in educational policy. *International Journal of Qualitative Studies in Education*, 33(4), 465–490. <https://doi.org/10.1080/09518398.2019.1681538>
- Garces, L. M. (2020). The false notion of “race-neutrality”: How legal battles in higher education undermine racial equity. *Change: The Magazine of Higher Learning*, 52(2), 51–55. <https://doi.org/10.1080/00091383.2020.1732778>
- Given, L. M. (2008). Critical discourse analysis. In *The SAGE encyclopedia of qualitative research methods* (pp. 145–148). SAGE Publications. <https://doi.org/10.4135/9781412963909>
- Gretzinger, E., & Hicks, M. (2024). Tracking higher ed’s dismantling of DEI. *The Chronicle of Higher Education*. <https://www.chronicle.com/article/tracking-higher-eds-dismantling-of-dei>
- Harper, S. (2023). *Racism denial: What is it and where does it come from?* [Master Class]. Master Class Series: Science Denial and Racism Denial, USC Rossier School of Education. <https://rossier.usc.edu/usc-rossier-master-class>
- Hazel, M. (2023). *Under the radar: Legislative intent to silence Critical Race Theory* [West Chester University]. https://digitalcommons.wcupa.edu/all_doctoral/196/
- Hernández, T. K. (2023). Can CRT save DEI: Workplace diversity, equity & inclusion in the shadow of anti-affirmative action. Available at SSRN: <https://doi.org/10.2139/ssrn.4666156>
- Howerton, G. (2024). Denying racial animus: Political discourse in Arizona anti-ethnic studies legislation. *Discourse & Society*, 35(6), 774–790. <https://doi.org/10.1177/09579265241245131>
- Jones, V. A., & Briscoe, K. L. (2023). *Upholding Whiteness through legislation: A critical discourse analysis of attempts to ban critical race theory* [Paper session]. AERA Annual Meeting, Chicago, IL.
- Justice, B. (2023). Schooling as a White good. *History of Education Quarterly*, 63(2), 154–178. <https://doi.org/10.1017/heq.2023.7>
- Karabel, J. (2006). *The chosen: The hidden history of admission and exclusion at Harvard, Yale, and Princeton*. Houghton Mifflin Harcourt.
- Knox, L. (2023, April 7). Anti-CRT measures exploded last year, report finds. *Inside Higher Ed*. <https://www.insidehighered.com/quicktakes/2023/04/07/anti-crt-measures-exploded-last-year-report-finds>
- Ladson-Billings, G. (2000). Racialized discourses and ethnic epistemologies. In N. K. Denzin & Y. S. Lincoln (Eds.), *Handbook of qualitative research*, (2nd ed., pp. 257–277). Sage Publications, Inc..
- Lieutenant Governor of Texas Office. (2023, February 13). *Lt. Gov. Dan Patrick announces top 30 priorities for the 2023 legislative session* [Web page]. <https://www.ltgov.texas.gov/2023/02/13/ltgov-dan-patrick-announces-top-30-priorities-for-the-2023-legislative-session/>

- Matias, C. E. (2023). Hysteria, hypermania, & hullabaloo: How white emotionalities manufactures fear of critical race theory & teaching. *Thresholds in Education*, 46(1).
- McGee, K. (2022, February 18). Lt. Gov. Dan Patrick proposes ending university tenure to combat critical race theory. *The Texas Tribune*. <https://www.texastribune.org/2022/02/18/dan-patrick-texas-tenure-critical-race-theory/>
- Meehan, K., Friedman, J., Baêta, S., & Magnusson. (2023). *Banned in the USA: The mounting pressure to censor*. <https://pen.org/report/book-bans-pressure-to-censor/>
- Miller, R., Liu, K., & Ball, A. F. (2023). Misunderstanding the campaign against CRT: Absurdity and White Supremacy in attacks on teaching and teacher education. *Thresholds in Education*, 46(1), 139-156.
- Miles, M. B., Huberman, A. M., & Saldana, J. (2014). *Qualitative data analysis: A methods sourcebook*. SAGE Publications.
- Natanson, H., Morse, C. E., Narayanswamy, A., & Brause, C. (2022). An explosion of culture war laws is changing schools. Here's how. *The Washington Post*. <https://www.washingtonpost.com/education/2022/10/18/education-laws-culture-war/>
- Newman, I., & Houchins, D. E. (2018). Conceptualizing mixed methods questions in special education research. *Research in the Schools*, 25(2), 23–33.
- Noboa-Rios, A. I. (2019). *The story of Latinos and education in American history*. Peter Lang. <https://doi.org/10.3726/b14394>
- Omi, M., & Wynant, H. (2014). *Racial formation in the United States* (3rd ed.). Routledge. <https://doi.org/10.4324/9780203076804>
- Onwuegbuzie, A., & Collins, K. (2017). The role of sampling in mixed methods-research. *Kölner Zeitschrift Für Soziologie & Sozialpsychologie*, 69. <https://doi.org/10.1007/s11577-017-0455-0>
- Paltridge, B., & Hyland, D. K. (2012). *Discourse analysis: An introduction*. Bloomsbury Publishing. <https://doi.org/10.5040/9781350934290>
- Reisigl, M., & Wodak, R. (2000). *Discourse and discrimination: Rhetorics of racism and antisemitism*. Routledge. <https://doi.org/10.4324/9780203993712>
- San Miguel, G., & Donato, R. (2009). Latino education in twentieth-century America. In E. G. Murillo, S. A. Villenas, R. Trinidad Galvan, J. Sánchez Muñoz, C. Martínez, & M. Machado-Casas (Eds.), *Handbook of Latinos in education: Theory, research and practice*. Routledge. <https://doi.org/10.4324/9780203866078.ch3>
- Sawchuk, S. (2021, May 18). What is critical race theory, and why is it under attack? *Education Week*. <https://www.edweek.org/leadership/what-is-critical-race-theory-and-why-is-it-under-attack/2021/05>.
- Schwartz, S. (2023, June 13). Map: Where critical race theory is under attack. *Education Week*. <https://www.edweek.org/policy-politics/map-where-critical-race-theory-is-under-attack/2021/06>.
- Scussel, E. C., & Norris, J. E. (2023). “That sounds scary, let's ban it:” Analyzing manufactured ignorance & the attack on critical race theory in K-12 schools. *Thresholds in Education*, 46(1).
- Solorzano, D. G. (2023). *Censorship? Indoctrination? Erasure? Critical race theory and teacher education* [Invited speaker session]. AERA Annual Meeting, Chicago, IL.
- Superville, D. R. 2023, 26 January. Divisive politics are harming schools, district leaders say. *Education Week*. Accessed January 27, 2023 from <https://www.edweek.org/leadership/divisive-politics-are-harming-schools-district-leaders-say/2023/01>
- The Texas Senate. (n.d.). *Senate audio/video archive – 88th session*. Retrieved October 19, 2023, from <https://senate.texas.gov/av-archive.php>

- van Dijk, T. A. (1992). Discourse and the denial of racism. *Discourse & Society*, 3(1), 87–118.
<https://doi.org/10.1177/0957926592003001005>
- van Dijk, T. A. (1997). The study of discourse. In T. A. van Dijk (Ed.), *Discourse as structure and process* (Vol. 1, pp. 1–34). SAGE Publications, Inc. <https://doi.org/10.4135/9781446221884.n1>
- van Dijk, T. A. (2011). *Discourse studies: A multidisciplinary introduction* (2nd ed.). SAGE Publications Ltd. <https://doi.org/10.4135/9781446289068>
- van Dijk, T. A. (2015). Critical discourse analysis. In D. Tannen, H. E. Hamilton, & D. Schiffrin (Eds.), *The handbook of discourse analysis* (pp. 466–485). John Wiley & Sons.
<https://doi.org/10.1002/9781118584194.ch22>
- Wodak, R., & Meyer, M. (2001). *Methods of critical discourse analysis*. SAGE Publications.
<https://doi.org/10.4135/9780857028020>

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