

## 2021 Black Lawyers Matter Conference<sup>SM</sup> Session 2: The Curriculum and Pedagogy of Legal Education

### FULL TRANSCRIPT

**Voiceover:** 2021 Black Lawyers Matter Conference<sup>SM</sup> presented by LSAC, University of Houston Law Center, and SMU Dedman School of Law, in collaboration with the conference planning committee. Recorded October 15, 2021. Session 2: The Curriculum and Pedagogy of Legal Education.

[Upbeat music plays and fades out]

**Danielle Holley-Walker:** Good afternoon. My name is Danielle Holley-Walker, and I'm the Dean of Howard University School of Law. I'm really pleased to be here with you this afternoon to moderate the panel on the curriculum and pedagogy of legal education. I want to start off by thanking Dean Baynes, Dean Collins, Kellye Testy, the entire planning committee and the sponsoring law schools and organizations for the [2021] Black Lawyers Matter Conference. This is an incredible event and I'm just hoping this, I know that this incredible panel will hold the standard of the last panel, which was so tremendously interesting and I have three superstars of the legal profession here with me this afternoon for this panel on curriculum and pedagogy. I'm not going to give them their full bios because that would give us the full hour. So I'm just going to briefly tell you their names and their titles and say a little bit about them and then we will move right into the questions. Please make sure that you drop your questions in the Q&A, which has been cleared out for this session and I'll start with our first introduction. So our first panelist and I'm going in alphabetical order. Our first panelist is Dean Danielle Conway, who is the Dean and Donald J. Farage Professor of Law at Dickinson Law, the Pennsylvania State University. Dean Conway is really a force of nature in our profession and literally changes our profession for the better every single day that she leads in the profession. She is really the brainchild and leader of the Dean's Anti-racist Clearinghouse Project, where I had the honor of working with her and I always have to say, just to brag about her but of course, she's a Howard University School of Law graduate. We could not be prouder of Dean Conway. So welcome Dean Conway to the panel. Our second panelist is my sister dean and dean in DC, Renée McDonald Hutchins, who is the Dean and Rauh Chair of Public Interest Law at the University of District of Columbia Law School. Dean Hutchins is just an incredible leader and also just kind of torch bearer for the entire kind of idea of really producing public interest lawyers who come into the profession to dedicate themselves to public interest law. She lives it, she works it, she talks about it, she supports it and she is absolutely just an honor to serve with her and down the street from her here in the District of Columbia. Our last panelist is professor Teri McMurtry-Chubb, she is the associate dean for research and faculty development at the University of Illinois, Chicago School of Law. Professor McMurtry Chubb is incredibly renowned and well-known in this field and she has so much to add to this discussion, including talking about her new book, which is about to come out and we will talk about that, I think it's already out and we'll talk about that in our discussion. Stacy Leeds, who is the foundation professor of law and leadership at the Sandra Day O'Connor College of Law, Arizona State University was supposed to be with us today, but unfortunately she had a family emergency and was unable to attend, but I can assure you that these three panelists, plus it's always hard for me not to chime in that the four of us together will give you a full hour. Please put your questions in the Q&A, because we'll leave a lot of time devoted to the Q&A at the end of the panel. So I want to

start with the first question and Dean Conway, I'll lead off with you and then I want to get all three of the panelists to respond to this question. What are some of the trends in legal education that we are seeing nationally with respect to implementing DEI? So diversity equity and inclusion strategies, but also anti-racist curriculum and pedagogical initiatives and what has been the impact of those initiatives on minoritized students?

**Danielle M. Conway:** Thank you so much, thank you for having me here and LSAC, terrific that you are partnering with Dean Len Baynes and SMU and University of Houston to put this on. Thank you so much. So trends and impact, the trends are that, people are in the midst of the degrees of acknowledgment of how the history of our nation, especially with slavery and oppression are, important subjects to be discussing either in faculty meetings or workshops where faculty members, staff members, administrators want to consider how to think about anti-racism and the curriculum. Some schools have moved to having electives available to address and acknowledged these issues still other schools have jumped out and said, we to require this kind of content to contextualize the origin story of law and systems of law that are structured by our education system and so those are some of the trends and the impact on not just minoritized students, thank you very much, but the impact on every student is to substantively contextualize these laws that come to define and order our society. So instead of, for example, teaching just a back of the envelope, colorblind jurisprudence of the 14th amendment, some schools are teaching a more contextualized substantively thick version of the 14th amendment. So we understand how they have impacted African American men, how they impacted indigenous men, how they impact women, how they have impacted women of color and how that actually helps us understand the big, big issue of citizenship and this is something that every student needs to understand that some people have more access to citizenship than others, others had liminal existences with citizenship, others had no access to citizenship. So this helps our students, all of them, understand the landscape that we're dealing with today when we see that we have challenges with understanding how to fully embrace immigrant populations. If we understand our history, we kind of know and see what we're doing in that sphere, that is not living up to our equal justice for all.

**Dean Holley-Walker:** That's wonderful.

**Renée McDonald Hutchins:** Danielle can I piggyback just really quickly on something that Danielle, I'm sorry, Dean Holley-Walker, can I piggyback really quickly on something, that Dean Conway just talked about.

**Dean Holley-Walker:** Of course.

**Dean Hutchins:** In terms of trends and impact, and one of the things that I really want to highlight is the point that she just made about de-centering this notion that diversity equity and inclusion are only about marginalized people, right? That's the benefits that flow from a focus on DEI and anti-racist theory, the rising tide lifts all boats, that everyone in our institution is benefited when we focus on these issues and my hope is that one of the trends that we're currently seeing is a recognition of fact that to this point, one of the understanding of DEI was that it was really about helping that other student get into the institution or that it was about helping that other faculty members secure a seat, but that everybody else would sort of blissfully walled off from that conversation and everything happening inside of the academy, didn't need to be addressed. We just needed to sprinkle in some color to make things more fair, to help those people, right? And that the moment that we're in right now is that that construction of the problem is 100% law, that it is about advancing legal education, writ large. It is about advancing the legal profession, writ large, not just for the handful of Black, Brown, Asian, other people who are being added into the conversation. Dean Holley-Walker: Very good professor, McMurtry-Chubb, do you want to chime in?

**Teri A. McMurtry-Chubb:** Absolutely, yeah. what I see is a lot of reflection with individual faculty members to think about really seriously, what they're teaching and how they're teaching it and that reflection is coming from, pressure from colleagues, but also pressure from students. I think that student affinity groups, social justice, focused student groups are really placing pressure on faculties to be accountable for how they're teaching subjects in the core and that's resulting in various kind of creative initiatives across the country, in various law schools about how we implement what they're calling us to do.

**Dean Holley-Walker:** Very good. I want it to turn next, Dean Conway, back to you to really talk about an upcoming project. So I understand that you are heading a very exciting project soon to be launched that is focused on developing anti-racism frameworks for institutions specifically within legal education in the profession. Can you give us a preview of this project and let us know where to access information?

**Dean Conway:** Sure, I'm trying not to jump out of my seat with this, but I'm really excited that about a year's worth of planning and work after the co-curation of the Law Deans Anti-racist Clearinghouse Project has dovetailed into some written work that my colleagues had done at Penn State Dickinson Law to document our required race in the equal protection of the laws program, which has itself flourished into a book proposal that I submitted to the University of California press on their invitation and then as soon as they made the invitation to me, they said, this cannot just be a book. This has to be a book series, and we want 10 volumes of this because of the way that we have constructed, how to address anti-racism across institutions. A lot of what is being discussed is anti-racism at the individual level and so what this book series does is it treats using a systems design systems theory approach to treat both identification of systemic inequity and responses to it, to then transform institutions to one bearing systemic equity and so it's called "Building an Antiracist Law School Legal Academy and Legal Profession", and the 10 volumes are actually broken up into the functions of an institution, particularly a law school or legal organizations and addressing using ideation, just like we did with the Law Deans Anti-racist Clearinghouse Project, ideation, practice, prototyping, going out and testing it, and then finding the bugs and fixing the bugs and figuring out how to infuse anti-racism in to each one of the functions of an organization and so it's really exciting because complimentary to that, we have created something called the Anti-Racist Development Institute, so that leadership teams from these organizations can actually come and practice how to ideate and implement test, and then correct their concepts of anti-racism that fit within their organizations and I'm pleased to say that this major initiative to advance anti-racism in legal education. This is going to involve the entire legal academy. We have already received notes from individuals that they will be participating as chapter contributors to each one of the volumes.

So we have over 80 people involved already, over 30 law schools to help write this, but they're also going to be trained in systems design so that it can follow this path of ideation and implementation and I'm sitting on just several founding organizations that are at the precipice of announcing their involvement, but before I do that, everything has to be perfect, right? But I do want to communicate that Penn State University president Eric Barron has already committed explicitly \$2 million of dollar-for-dollar matching funds to stand up the Anti-Racist Development Institute that launches from the University of California press book series. So it is quite an exciting venture and I want everyone on this call to be involved either as writers, either as students of the project and just to reach out to me just with ideas and so I will put into the chat, obviously my contact information, but, this is about to be just an amazing effort that we are going to collectively like Professor Meera Deo said, "How do we take collective action?" Well, this is one opportunity to take collective action toward anti-racism efforts in our institutions.

**Dean Holley-Walker:** That is just tremendously exciting and I think the breadth of what you're doing, but also I think those questions about how do we operationalize and put into actual work, the work that was started in the summer of 2020. So that is incredibly powerful. Professor McMurtry-Chubb, your book is called "Strategies and Techniques for Integrating Diversity Equity and Inclusion Into the core Law Curriculum: A Comprehensive Guide to DEI Pedagogy, Course Planning and Classroom Practice", can you talk to us a little bit about your book and how it can be used by professors and people in the legal profession who are practicing? Professor McMurtry-Chubb: Yes, absolutely, so one of the reasons why I wrote the book and it's available in print, and also as a free download at Wolters Kluwer's Legal Education and also a shout-out to Dean Carla Pratt for her work in shepherding this project through. So I wrote the book to really address, and we'll be talking about this subsequently on the panel, but some challenges and kind of a holistic approach to this, the bare bones implementing DEI curricula at a law school. And so there are so many challenges and lots of opportunities, but also I didn't want us to go into the process thinking naively that just because we wanted to implement an anti-racist curriculum, that people would be wholeheartedly embracing our, wanting to implement an anti-racist curriculum and for faculty to be able to have some really thoughtful and meaningful discussions around what that might look like at their law school, because all politics are local so that we might have these really big, ideas and plans. But at the end of the day, our faculty have to buy in and our faculty have to implement these things at the law school level. So the book addresses academic freedom, racial trauma approaches to teaching of course, planning and assessment, all of the things that, as professors on the ground in the classroom would want to, concern ourselves with as well as administrative issues like classroom climate and professor rank and status and positionality theory and all of those things to give us just a comprehensive guide to how do we do this and in practice, because I think that's the burning question that most professors have right now, how do I do this? And not just in a piecemeal way, but comprehensively.

**Dean Holley-Walker:** That's great, I want to turn back to Dean Hutchins and this is a question that we've gotten in the Q&A, and I wanted to ask it and I would love all three of you to comment, but I want to start with Dean Hutchins. So I think one of the things that we saw in 2021 that many are saying is a backlash to the anti-racist work done in 2020 is the anti-critical race theory movement that we have seen really take off. I'm sure many people in the audience are familiar with it, but will you talk to us a little bit about the anti-critical race theory movement that we see happening and it's relationship, I think some of the question/answers are, is this movement related specifically to work in DEI and to the idea of anti-racist law schools and curriculum and that's for the whole panel and I'll start with Dean Hutchins.

**Dean Hutchins:** So the answer to that I think is yes and no, right? Is the opposition to critical race theory directly related to the work that we have been doing in law schools. Yes and no, it is related to it is also much broader. I think that part of what we are seeing is the difficulty of leaning into work that forces people in this country to honestly acknowledge this country's origins. I think that we, as a nation love to be blissfully naive, Americans love a good fairytale, and we like stories that paint us, the country, its citizens, as a people who have overcome historic wrongs that happened back then with those people, but that are not sort of currently sitting in the fabric of what America is and I think that the racial reckoning that happened last summer that we have seen continued to bubble and develop challenges that sort of foundational principle about who America is and that can be very discomfoting for some people. I think that as we are moving into this work, we have to do a couple of things very well, if we want to make sure that the work takes hold first, we have to do what my fellow panelists have been talking about, right? And we have to help people understand why anti-racism work and DEI work are not just about the other, they are about all of us. The other thing that I think we have to do is we have to acknowledge that this work is hard. That if you have staff in a space where your White privilege has afforded you many open doors, it can be very uncomfortable

for somebody to say to you that some of what you have accomplished might not have been earned, right? And we have to be honest about how uncomfortable that conversation can be. We also have to be honest about the fact that this work does not happen with one conference or one panel or one hire or one admission cycle. This is work that requires a deconstructing of generations of beliefs and generations of structural impediments to advancement. We know that [sic] opportunity is equally distributed across the American population, right? I'm sorry, talent is equally distributed across the American population. We also know that opportunity and access are not, right? And so getting under that, getting to the work that will allow that talent to be harvested, it allows all of us to see that as a nation, we benefit when we maximize the development of talent across the population. That's the work that we have to do, I think the other thing that that is challenging, right? is that we have got to get out of the space of requiring the impacted people to be the only voices that are raising up solutions to problems we did not create and so it is very necessary that we broaden the conversation. So that's my very long winded way of saying that, the opposition to critical race theory that we're seeing right now is both about the fact that we are leaning in to DEI work in anti-racism work now, and is also a very calculated and manipulative reaction to the reality that power in this country is about to be more broadly accessed and those who have been in power recognize their shrinking access to it and are fighting very, very hard to overcome it and so the opposition to critical race theory, is a dog whistle to historic retrenchment of power that people want to see advanced. Dean Holley-Walker: That's great, Dean Conway, do you want to talk a little bit about the anti-CRT movement that we're seeing take hold and maybe a little bit about efforts in your own state? Are there efforts in Pennsylvania to pass an anti-CRT bill?

**Dean Conway:** Oh yes, and this is a broad, it's just not the Commonwealth of Pennsylvania. This is a, as Dean Hutchins said, this is a concerted effort, especially at the lowest levels, the municipalities, the local governments, which is why they're targeting school boards and when you go on the website, I'm not even going to promote the website, but saying the name, but when you go on the websites and they are addressing what they are calling the ordinary people, right? The populous to rise up, to be whipped up by them to take control at school boards so that at the lowest levels, they can direct how we write history and how they rewrite the narrative of history and this opposition to critical race theory, is really an opposition to the truth of history and the truth of laws complicity with history and as Dean Hutchins says to retain power in this small group, this small powerful group, they will use narratives, right wing and tea party will use narratives that demean and mischaracterize critical race theory in order to create the fear necessary, to try to then perfect power within the local government, municipal governments and school boards, where we need to be training everyone on the history of the origins of America in order not to have a confused populous that can be manipulated later on any educational process and St. Louis University law journal symposium had Dean Angela Onwuachi-Willig talking about critical race theory and we hit this home. This is not nearly an assault on critical race theory. This is a full blown assault on democracy and democratic institutions. So this is a first step.

**Dean Holley-Walker:** Yes and I think it's interesting how words can begin to take on different meanings I had a cousin who's a doctor who was like, why would they call it critical race theory? That just turned so many people off and I'm like, whoa, it was interesting that even someone who obviously supports, the teaching of history, that commandeering of language that actually really applies to an entire sphere of legal scholarship has now been taken and changed into something that is one of the banners on the headlines, and really has just come to mean anti-history or wanting to maintain status quo. But whatever that kind of broader agenda is. But knowing that that language of a very specific form of legal scholarship has been weaponized in the way that it has been just incredibly disheartening to see. But also, as you said, causes us to want to fight harder and make clear what the truth is and why we need to elevate history and the telling of all of our history for people from K through 16, 17, 18, 19, all the way through higher-ed, Professor McMurtry-Chubb, did



you want to talk a little bit about the anti-CRT movement and how it may kind of challenge the work that is done around anti-racist teaching?

**Prof. McMurry-Chubb:** Yeah thank you. So what I've been seeing just on the ground is that starting probably last fall in earnest in the spring, that there were institutions who, were asking for DEI consulting, but then, you get the call that says, well, you can't say these words, you can't say White supremacy, you can't say, and the list goes on and on and you're thinking, okay, well, there's no reason for me to come there because, I'm going to be talking about power and unequal power distribution and our past and it's impossible not to use these words. So I've been seeing that I've been seeing on law faculties, there's a distancing from not wanting to really engage with the ideas of critical race theory and people throwing up the first amendment roadblock sort of pitting the first amendment against DEI efforts in the curriculum, especially. So that goes back to our grand ideas versus actual faculty buy-in that some faculty see requirements that they speak about candidly and honestly about our history and its complicity with law as Dean Conway so eloquently put it, see that as a challenge to their academic freedom and so those are some of the real challenges that we face moving forward with this work.

**Dean Holley-Walker:** Okay, great I want to pick up right there and kind of broadened to the question that Professor McMurry-Chubb was just talking about and to circle back and ask more broadly about the challenges. So what are the biggest challenges to implementing DEI or anti-racist curricular and pedagogical initiatives at U.S. law schools, especially, the kind of teaching that we're talking about in terms of incorporating across the curriculum, making sure that even in our core 1L classes and required classes in the upper level, like PR and other classes that all of that has this kind of proper context of history and the history of race and the way that structural racism has helped to prop up pretty much all of our law in the United States, how, what are those biggest challenges? And I'll go back to Dean Hutchins first.

**Dean Hutchins:** So I think that historically diversity efforts and diversity work has often focused on helping White people recognize and work to address their own racism, right? That it has been very White-centered, or it's just focused on avoiding losses, right? Like title seven trainings or those sorts of things, or it has focused on trying to figure out how to include people of color in what was largely a White frame, right? Without disrupting White privilege at all, just figuring out how to add on right, make us a plus one. And I think that some of the work has been about avoiding discomfort, right? The stuff that, that Professor McMurry-Chubb was just talking about, don't say this, and don't say that don't say the other, because you make people uncomfortable. I think that if we are really going to get into this work, meaningfully, we have got to be honest about how hard it is. We have got to be honest about how uncomfortable it will be, and we all need to be ready to sit in that discomfort. We are not going to make progress until you and not, people are going to say the wrong thing. People are going to mess up. People are going to be resistant to coming to the place of conversation, we've got to walk into it, knowing all of that and still say, but this is important work that has to be done if we as a society are willing to move forward, right? That it is curious that the profession tasked with ensuring equal justice under the law struggle so mightily internally with that very thing concept and so we've got to get to a place where we are acknowledging the broader good acknowledging the difficulty of the path and committing to it nonetheless, I think one of the other challenges, that we are going to face in this work is it's sort of the flip side of a very difficult point, right? So we have got to hold people accountable for racist behavior. We just have to wait when people engage in racist behavior, we've got to acknowledge that racist behaviors happen and consequences have to flow from that, at the same time this can not become the hunt for the racist because when we engage in that pursuit, we let the institutions and the structures off the books and if this work is going to be effective, if this work is actually going to result in progress, we both got to acknowledge the individual and acknowledge the institutional, right? And so we've got to do that balance of making sure that we

are shame on you, John, right? But at the same time, shame on you institution act, we're doing both at the same time. And the last thing that I would say that I think we want to be careful of in terms of challenges in regard to this work is over-simplification. That diversity is not easy, Diversity is remarkably complicated. It is remarkably complex. I am sure that lots of people would look at this call and these panelists and say, wow, that's four Black women, they all walked through the same path and, that is a homogenous group and we are so not, right? Like we all know each other, we all know each other very well and we all know the ways in which, we intersect in terms of our identities and the ways in which we diverge in terms of our identities and so one of the very very challenging things about effective DEI and anti-racist work is acknowledging that complexity of human beings and figuring out how to not decentralize people down to their most obvious identities. All right, I'll end there. Someone else jump in.

**Prof. McMurtry-Chubb:** Yeah I wanted to piggyback on what Dean Hutchins was saying, which is that diversity does not equal access and opportunity, and so law professors should come from a variety of law schools, they should come from a variety of tiers. There are people who are well-educated and well capable perspective law faculty who never get the opportunity to be law faculty and then the other thing is that status issues are also implicated in our discussions of creating anti-racist law schools because for instance, clinical faculty and law professors who teach legal writing are often not on the tenure track. Often don't have voting rights at their respective law schools and so if law schools are thinking about getting on the anti-racist bandwagon, then they need to get their own houses in order and create equity for all faculty. The other thing I want to say is that Dean Hutchins is absolutely right that most diversity efforts and even when people are asked to come in and do workshops for faculty, it is about getting particularly White faculty to acknowledge the fact that racism exists and so students of color who have to sit through those sessions and faculty of color opposites through those sessions, we're not sitting there happy because we don't need to be convinced. So there never any tools really that center racial trauma and give us the tools to navigate inherently systematically racist institutions and so we haven't centered our education there. It's all about making people feel comfortable about the idea of engaging in discussions of racism and inequality. I mentioned faculty buy-in like, that's a huge challenge that we have to have. We also need comprehensive approaches, not just these piecemeal kind of add on approaches where professors say, oh, I'm going to talk about like a case and everybody has whatever case it is in their mind, but actually looking at the subject matter in a holistic way, and thinking about what are the ways that this particular discipline pushes us toward inequity? What is the context for, what is it's historical context? What has been its function in the law? And then as I've been mentioning throughout this session, the first amendment challenges and academic freedom challenges that faculty have raised are real and there are several law suits pending right now in American law schools with faculty who are challenging, their right to say certain things in the classroom that are racially offensive, and that law schools are grappling with that, and that's a big issue for deans, in shepherding this work through.

**Dean Holley-Walker:** Right, Dean Conway?

**Dean Conway:** I will say one of our audience members put a wonderful question in the Q&A, which speaks to what the challenges are. So the first challenge is also to understand the breath of this movement, and it is a movement, right? Then the second challenge is to understand how to make movements successful, how to make collective movements successful. So we back up to the first one, this is not just about anti-racism and legal education. This is tangentially, comparatively and collectively about anti-oppression, anti-subordination, anti-racism, these are in the constellation of this moving sphere of equality and so all of this is connected and critical, and we must look at it collectively. Now I have the absolute pleasure to be a dean serving with another dean here at Penn State University, Clarence Lang, who is the dean of the College of the Liberal Arts and he writes

about the failures of movements and it's extraordinary because it fits exactly into what we need today. We need today a collective, a coalition that understands how to go beyond single issue movements, how to go beyond self-interested movements and how to move into a sphere of fluid movement, where we identify multiple, multiple issues, multiple hills, that we must climb together, and then practicing how we stay together, practicing how we retain the loyalty that we need to retain the trust that we need to retain and the vision for a more equal future for the members of the collective and I say fluid, I say cyclical and this is why systems design is so important, this recursiveness of equality, when we capture a hill, we got to keep going to go to the next hill and we have to keep it going, and the movement must grow and in that we see the democratization of the movement.

**Dean Holley-Walker:** I want to rewind a little bit, and this is not a question that we had talked about beforehand, but it's one that has really been crossing my mind recently and as we're having this conversation, I think one of the things that's most challenging to me about the idea of law schools doing anti-racists and DEI curriculum and pedagogical work is how do we help our professors who are faculty, who are very well-intentioned many of them want to incorporate more anti-racist and DEI teaching into their classrooms, but we're never educated in these things themselves. I think we went faculty by faculty and even asked our faculty what is anti-racist work? And I think this was obviously one of the impetus behind the anti-racist clearinghouse project was to help our colleagues become more comfortable in using that language. So, talk to us about how did we begin to equip the people who would actually need to do this work on the ground? Obviously projects, Dean Conway, obviously your project with UC press is the kind of work that is incredibly important to this, but I'm even thinking about the conversations that we have on hiring committees, et cetera, these faculties aren't ready to teach anti-racist work. We are literally not doing that work inside of our own hiring practice.

**Dean Conway:** Look I graduated from Howard University School of Law, and I don't want to out it, but at the time I went to Howard Law, the issue was bar passage that we got to produce students who can pass the bar so it was not, like you brought to the studying Pauli Murray and what she did to dismantle Plessy versus Ferguson theories, right? We didn't learn that and so thankfully you're doing that, Dean Holley-Walker, but here's the other thing now that I outed Howard Law at that time, here's a place where there was a critical mass and so you had certain structures in which you felt comfortable in learning, right? So that's one thing, but let me say this. I am now dean at a predominantly White institution, the first institution that put out the anti-racist statement that people have been evaluating and adopting and what it is and what it was, was a recognition that we are law professors that makes us researchers that makes us scholars who are capable of teaching about subjects that we don't know about, what it takes is the commitment to the research. What it takes is a commitment to the learning, which is why, when you look at the Dickinson Law, Race in the Equal Protection of the Laws program website, you will see our narrative change, we are teachers and learners, and those are symbiotic and so we have the tools and we have the capacity to both teach and learn and that's what our faculty have committed to. And so part of when I assess faculty on their performance every year, the first question I asked in that is now, how did you this semester implement these anti-racist principles in the pledge that we took and they go through and they say, well, here is what I did over here and then I had someone else come into class and we did this. And then here's how I connected it to some of the extracurricular work we're doing and that way then we do, this is the key, right? This is the recursiveness, then we do after-action reports for everybody. And I talked to our group during our workshops. People like Professor Meera Deo come to our workshops and say, okay, you did all of this last cycle. Now let's think about how to expand that, let's think about how to connect that. So as Dean Hutchins said, this is not one and done. This is not bespoke. This is something that we build upon and it has been so rewarding to just watch the explosion of growth in the classroom and in our conversations with our appointments committee and



then the conversations with our equity, when we talking about the equity and pay, people are actually talking about this in a much broader way.

**Dean Hutchins:** Yes, I want to pick up on what Dean Conway was talking about in response to your question and my first response is going to be a little flip, I'm letting you know right up front, and then I'm going to walk it back some, so the first thing I would say is it is incredibly frustrating to me when I hear the response, "Is hard? I don't know anything about it." and I feel like I've just got to call BS on that because law professors and some of the smartest people I know we write about stuff that we have no idea what we're talking about, walking into the article and then we do the hard work of researching and reading and informing ourselves so that we can get to a place so that we can speak competently about the issues that we write about in our scholarship. This is not a unique process for us, it is something we should be deeply familiar with and so that's not my somewhat flip response, right? But my more thoughtful responses, I get that it's hard, right? As law professors, we are accustomed to being the smartest people in the room. We are accustomed to be experts in our field and for some people stepping into this work can force us back into being novices can for the back into not knowing much about the space that we are operating in and that is an incredibly uncomfortable place to be. And we have to, that we have to make it explicit and we have to say that we all have work to do in the DEI space. All of us, every person has a space where they have got blinders on, where they do not see their own privilege, where they do not see the ways in which their identity is normalized and other people's identities are not and so I think that if we can force people to understand that this work is hard for everybody, it is long term and it is incredibly uncomfortable and there's just no way around that, right? Like I want the diet that allows me to look amazing and healthy eating donuts and never exercising, guess what that doesn't exist and we need to be as realistic about the amount of effort and work that this is going to take, if we're going to get to the other side of this.

**Dean Holley-Walker:** Very good Professor, McMurtry-Chubb, did you want to add anything about how can faculty really, how can we address that issue of getting faculty to feel prepared and ready to really enter this anti-racist teaching and curriculum space?

**Prof. McMurtry-Chubb:** Yeah so I can use an example from my own faculty, but I think most importantly, the directives have to come from the top because then it makes it very easy to say, this is a requirement. It's not something that's optional. So our chancellor of the University of Illinois, Chicago, chancellor of the University of Illinois, Chicago and university system has said, listen, we're moving our institution toward an anti-racism. So to that end, we have a university-wide task force, that's been tasked with doing this. Every unit is required to do and advancing racial equity report to show what they're doing, identifying issues that they need to address and that's only the first step and so in that context, when the summer of 2020 happened, our students then were giving us a list of demands and they said, hey, these are the things that we want from our institution, but these are the things that we want in our curriculum and it wasn't only our racial affinity groups, it was our groups like the National Lawyers Guild, et cetera, et cetera and like, so for instance, our National Lawyers Guild said, hey, you have Chicago PD because our campus is right in the loop. You have Chicago PD coming into the building and using our facilities and that is very disturbing for a lot of us who have had negative police interactions, so stop it. Like, we don't want that anymore and while you're at it, we want you to add abolitionism and Defund the Police to our criminal law curriculum period, right? So we had the man's like that, so as a faculty, we looked at what they had sent to us and we had several meetings and we drafted an accountability statement to our students. This is what we're planning to do over these years, right? And it took a little bit, but are we all signed off all the faculty signed onto it, right? So that creates, again, this kind of shared thing like, well, now you're kind of backtracking on that. Remember we told the students, I remember what we signed for them and we issue accountability reports to our students to say, this is what we'd done to respond to the

things that you've said. The other thing that we did is that we got funding to convene faculty small reading groups over the summer to read in the areas of anti-racism critical race theory, to have candid discussions, to get us all ready to talk about these things in the classroom. So again, building a skillset and then we launched our 1L anti-racist curriculum project, which is kind of a retrofit of anti-racism throughout our 1L core curriculum and our doing debrief sessions all along the year, two of which are planned for our whole community in this semester. So I think that, the big takeaway is that I totally agree with my co-panelists that law professors and lawyers do things that are hard all the time. We research, research, research, we learn about the things that we don't know, but it's important to provide a space for faculty to be able to talk candidly about what their fears and concerns are and to provide support and I think that when the directives come from the top, you create a community where mistakes and missteps are not punitively dealt with. So one of the things, I chuckle about is that, we had an incident in a 1L class, everybody has an incident in 1L class, that's something that happens, right? That deals with some issue of inequality and so we could draw upon what the work we had been doing over the last year. But most importantly, some of the students were like, "Oh, we want to punish these people to the fullest extent of the law." And I remember saying, "Don't, you all want to become abolitionists?" [McMurtry-Chubb laughs] So what are we looking at with different modes of accountability, right? And what does this look like in the process that you want to happen for there to be some accountability with your classmates? So again, I think, dealing with these issues, head-on as faculty and students and looking at us all as a community of learners, it really helps and helps us to create a community where we can have these discussions and it's not just candidate, and it's not just you have to do this, but what's best to move us toward the vision of an anti-racist law school and the anti-racist university.

**Dean Holley-Walker:** That's great, we had a great question in the chat, and I encourage you to put more questions in the chat. We were answering some of them live, and some of them were answering by typing out answers for the questions. But one great question that we got was how do we incorporate anti-racist teaching into academic support? So things that we're doing outside of the classroom to help support our students.

**Dean Conway:** Oh my gosh, so whoever wrote that, you're reading my mind. So building an anti-racist law school, legal academy and legal profession, again, takes every function of the law school, separates it, so that those who are leading in those spaces can understand how to ideate and implement anti-racism into the function and one of the books is actually called, "Academic Success Programs and Bar Exam." And so the discussion and the chapter contributions are going to be answering that very question. This is a volumes series, less about, hey, what's what are the problems? And let's go back and forth and what the problems are, and actually is intended to be an effort to provide strategies, to ideate around, to actually solve some of these problems using the anti-racist platform, but other common-sense suggestions. So for example, I mean, one immediate one is, if you do not have, frankly, a tenured position for academic success, there goes one big opportunity. Hold on. Second if you see that other jurisdictions, I want to call out Oregon, I want to call out Utah, right? They are doing not heavy lifting about how to diversify lawyer licensing and then what's that going to mean for academic success? Well, it means that we might be able to concentrate more on skill building as opposed to doctrinal memorization and so these are some of the strategies that we can ideate around and implement them and the reason why we have to do this function by function in jurisdiction by jurisdiction is because different jurisdictions are ahead of the game in terms of diversity of lawyer licensing and so we might be able to learn, and yes, Dean Burke and Dean Fershée, they are coming on board to write for this building an anti-racist law school, legal academy and legal profession, because they are leading a charge. Dean Elizabeth Kronk Warner is on board, and she's going to be writing because these jurisdictions are actually doing the out-front work to innovate in these areas and so this is going to be about, problem-solving not problem identifying.

**Dean Hutchins:** And I think in doing that work, one of the things that is so important is an accurate accounting of the history, right? So we have to be honest about why bar exam exists so that the efforts to broaden licensure requirements don't look like it watering down of quality, right? We've got to be honest about why those things were created in the first place and that's a part of the critical race theory lens. That's a part of providing a more accurate accounting of how we got here. We can't unwind where we are until we accurately understand how we got here.

**Prof. McMurtry-Chubb:** And I think one of the things too is addressing the whole of academic support and so for instance, we look at the food insecurity and housing precarity of our students. So we have a food for thought food pantry. That is a no-questions-asked food pantry for all of our law students and they can go in and get whatever food they need at whatever point they need and it's also available for staff and faculty, should anyone need it and is always fully staffed. We have a clothes closet full of professional wardrobe that students can go into and the clothes are regularly dry cleaned. You take what you need and bring back what you don't need and so looking at the whole student, how can we meet them, where they are and what are some of the issues that they might be struggling with for us to help them. There's also been a move with our assistant dean for diversity, who is student-facing to really kind of highlight, where the alumni are and what are, and what they're doing and creating opportunities, for that kind of mentorship to come back. Our dean of Bar Passage and Academic Support has integrated anti-racism into the entirety of the programming that department offers in terms of, making the case for the faculty that students will check out if they don't see themselves in the curriculum, like that's fundamental, right? That if they come to law school and they want to speak and discuss certain things, that they don't see, those certain things, where if they see a professor shying away from difficult conversations, that impact their community, that they're not going to be so quick to engage with the subject matter. So I think a holistic approach is warranted.

**Dean Holley-Walker:** That's great. So in our last round of the discussions, I really wanted give an opportunity for us to talk about the way that we address these challenges, right? So if we think of the summer of 2020 as the beginning of many wholesale efforts to bring more anti-racist teaching into our curriculum and into our pedagogy and that we know this work has been going on for a very long time. But if we think of that as you know, an important moment, the summer of 2020, and now we've seen some backlash and additional challenges, what is kind of the one prescription? I know that there's lots of things that all of you could tell us about how we really move forward from this point. But what is something you think is critical to us, overcoming the challenges and creating a movement. I loved what Dean Conway was talking about, about movement-building. So what are the critical things that we need to be doing at this point to answer the challenges and really begin this process of building sustainable movements to have anti-racist law schools and universities, Professor McMurtry-Chubb, do you want to start?

**Prof. McMurtry-Chubb:** Well, I think again, I'm really big on us getting our own house in order. So I think before you can build a movement, you have to be cognizant of where everyone is right back to Dean Hutchins point of, that diversity is not a monolith and so I think we have to look at who is in the movement, what are different concerns, and then how to collectively build on eliminating inequities in our hiring practices and the way we navigate our own institutions and how we develop curriculum and how we develop our committees that do all of the work and so I think that those things, like structurally, that we have to address on a broad level. So for instance, in looking at the way that hiring committees are formed, which are these very, kind of almost insular, and we really don't know, like it's a mystery about what happens in those rooms, right? It's not like hiring in corporate America, but what about instituting systematic tools and processes, like what about having rubrics for faculty hiring and hiring deans that make it kind of consistent so that everybody's kind of transparent about

how they're making their decisions. So I think that, and the movement and building a movement, I think we have to have some shared understanding about what we're moving toward and I don't know that we necessarily have that. I think that we're all thinking, oh, we want legal education to be different. We want our curriculum to be different. We want our faculty to look differently, but I don't know if we have shared beliefs and shared ideas about what that different looks like.

**Dean Holley-Walker:** That's very good. Dean Conway?

**Dean Conway:** Well as Dean Marcilynn Burke identified, she's like "Your military background is totally on display here." and when you leave, you can't have, and I don't mean this as a critique, but as a leader, everything can't be perfect and everybody can't be on the same train. So sometimes you just got to get that train in motion and those who get on the train and helping you do the work, they're going to be your tentacles. They're going to be your delegates, and they're going to help inspire other people to get on the train, so, frankly, as a leader, I don't need everybody on the train. I need the people who want to be there to be there, we do the work, and then when other people come to the table and say, "Oh, I want to do the work too." you like, "Yes come on in and do the work, this is fabulous, come on get on board." and then you can say, so that you don't have a completely cemented facade. You actually give people room to say, "I think you could do it better, if you did X." and you go, "You know what, you are absolutely correct." Let's make sure that our systems are malleable and changeable so that they can actually learn again from this recursive education and I believe something as a leader and that's failure, use failure as a tool, okay it didn't work out like that, well, you'll never do that again, but you can go over here and do something else and so I believe in failing, I like to fast fail because I ultimately like to succeed, but I don't need everybody on the train at once. What I need are people who are committed to learning, what I need are people who are going to challenge me because when they challenge me, the thing gets better. The thing gets better because my analysis becomes sharper. The vision becomes more intense, more focused. I need people who are just coming with open minds and say, okay, show me, show me what you got and then come on in and I say, you know what, show me what you've got and let's make this thing better and I love the idea of assessment, absolutely. It is all about assessment, let them that's, I referred before to the after action report, let's look at what we've done, let's evaluate it. Let's then rejigger re-tinker and move some steps forward. Let's bring forward. I hope I answered the question.

**Dean Holley-Walker:** You absolutely did.

**Dean Conway:** Okay.

**Dean Holley-Walker:** Dean Hutchins what are some key things we need to do to overcome these challenges that we see to really becoming anti-racist law schools and anti-racist universities?

**Dean Hutchins:** The first I'm going to say, "Why do I have to go after the two of them? Right? They brilliantly answered the question. So I will try to sum up and add a little bit without being redundant. So I would say three things. I think we need to reverse engineer. I think we need to assess, assess, assess, and I think we need to persist. And when I say reverse engineer, what I mean is, I think that sometimes this work can feel challenging because it can feel squishy, right? Because we don't have a target in mind and so I think that as institutions, we need to define what equity looks like for us and then we need to work toward that goal tirelessly. We need to periodically figure out if we're getting there and if we're not, pivot, but never move away from that broad definition of what equity looks like for us and it may be a very different answer depending upon where you are in the nation and what jurisdiction you're in, right? But define your version of equity and work tirelessly toward it. I think that that's the only way we are actually going to get there.

**Dean Holley-Walker:** That's incredible, define equity and move relentlessly towards that goal. I couldn't have said it any better. I want to turn our final attention in the last few minutes to the scope of what we mean when we talk about anti-racism or DEI curriculum and a question that we got that I thought was great is, is this really just about race or is it also about gender equity, is it about particularly the questioner asked about religion and does this kind of idea or ideal of the anti-racist law school help us face down things like Islamophobia and antisemitism? So that's the question is what is the reach of something like a DEI curriculum or anti-racist curriculum and pedagogy? How does that encompass all of the different ways in which we may see inequality or discrimination manifest.

**Dean Conway:** I'm just going to double down that I have, I addressed that both typing in the chat, but also in my last answer, it's not just about anti-racism. If you think of a Venn diagram, this is about anti-oppression is about anti-subordination and anti-racism, and this anti-fashion it's about everything, right? So we need to look at it as a holistic move toward collective action to equality, in fact, universal equality. So I hope that helps.

**Prof. McMurry-Chubb:** Yeah and well we can not forget ableism as well, which often goes not addressed and not discussed because this is huge and I think, what we're essentially talking about is multiple interlocking oppression: White supremacy, patriarchy, capitalism, imperialism, heteronormativity, ableist thinking all of it we're addressing.

**Dean Holley-Walker:** I love that. Someone asked when the Dean Danielle Conway podcast is coming out. I said, I don't know, but I would like to be a regular guest if it does come out, if she produces more hours in the day to actually do a podcast, I'm like, she's so busy right now. But yes, I love that idea. Love that idea. Well, thank you so much to the panel for being here with us. This was a tremendous conversation. We've left in the chat, the resources for you, including I really encourage you to look at the Antiracist Clearinghouse Project, the Dean's Antiracist Clearinghouse Project. Look at the work that's being done at Dickinson and the incredible kind of treasure trove of resources that they have put forward. I really encourage you to get Professor McMurry-Chubb's book and also to be a participant in the UC book press series, that's going to be done in terms of this incredible 10-volume work on the anti-racist curriculum and law school. So thank you so much Dean Conway, Dean Hutchins, Professor McMurry-Chubb, it has been a real honor.

[bright upbeat music]

**Voiceover:** Thanks to our sponsors! The American Bar Association, Association of American Law Schools, and the National Association for Law Placement. The 2021 Black Lawyers Matter Conference is presented by LSAC, University of Houston Law Center, and SMU Dedman School of Law, in collaboration with the conference planning committee.

[music fades]