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Massive Resistance—the Remix: Anti-Black Policymaking and the Poisoning of U.S. Public Education

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ABSTRACT

*What is occurring today in state legislatures and school boards around the country—under the guise of conservative attacks on Critical Race Theory—is merely a remix of the same song of white supremacy in public education. This nation has witnessed the impact of legislative campaigns designed to undermine educational opportunity for Black students before. This article applies a Critical Race Theory approach to analyze the role of law and policy in replicating racial inequality in education. This article asserts that policymakers seeking to preserve white supremacy in education have invoked three primary legislative tactics over the years: (1) denying; (2) defunding; and (3) destroying. Policymakers have passed measures to deny Black children access to quality education, including by closing schools serving them. They have defunded schools serving Black children by diverting or threatening to cut off funds for public schools, including those seeking to integrate or implement inclusive curricula. Finally, legislative measures have been implemented to destroy educational opportunities for Black children, including by decimating the Black teaching workforce and undermining the public education system. This article focuses on two touchpoints in time—the era of Massive Resistance following the 1954 U.S. Supreme Court ruling in *Brown v. Board of Education* and 2021’s conservative campaign to prohibit classroom discussions about past and current racial inequality in American. Using these moments, it examines how these three legislative tactics have been—and are currently being—invoked by policymakers to undermine educational opportunities for Black students and maintain white supremacy. This article asserts that such efforts can be met with law and policy designed to expand access to quality educational opportunities for Black children, including through increased federal investment in public education. The future of the nation’s public education system could depend upon staving off these devastating legislative assaults. It will take concerted legislative advocacy and effort to meet the moment and change the same old song to a new tune.*