

House Bill 1084 (COMMITTEE SUBSTITUTE)

By: Representatives Wade of the 9th, Jones of the 47th, Dubnik of the 29th, Meeks of the 178th, Thomas of the 21st, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 prevent the use of and reliance upon curricula or training programs which act upon, promote,
3 or encourage certain concepts, with exceptions; to provide for such exceptions; to require
4 local boards of education, local school superintendents, and the governing bodies of charter
5 schools to prohibit discrimination on the basis of race; to require that curricula and training
6 programs shall encourage such employees not to judge others based on race; to provide for
7 statutory construction; to provide for complaint resolution policies and procedures; to
8 provide for promulgation of a model policy by the State Board of Education; to provide for
9 guidance to schools and local school systems by the Department of Education; to provide for
10 a process by which certain individuals shall have access to certain records; to provide for
11 penalties; to prohibit certain waivers; to prohibit basing certification and classification of
12 certain professional personnel upon completion of training programs which act upon,
13 promote, or encourage certain concepts; to prohibit certain performance standards and the
14 code of ethics for educators to require completion of training programs which act upon,
15 promote, or encourage certain concepts; to provide for definitions; to provide for a short title;
16 to provide for construction; to provide for related matters; to repeal conflicting laws; and for
17 other purposes.

H. B. 1084 (SUB)

- 1 -

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Protect Students First Act."

SECTION 2.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Article 1 of Chapter 1, relating to general provisions, by adding a new Code section to read as follows:

"20-1-11.

(a) As used in this Code section, the term:

(1) 'Divisive concepts' means any of the following concepts, including views espousing such concepts:

(A) One race is inherently superior to another race;

(B) The United States of America is fundamentally racist;

(C) An individual, by virtue of his or her race, is inherently or consciously racist or oppressive toward individuals of other races;

(D) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race;

(E) An individual's moral character is inherently determined by his or her race;

(F) An individual, by virtue of his or her race, bears individual responsibility for actions committed in the past by other individuals of the same race;

(G) An individual should feel anguish or any other form of psychological distress because of his or her race;

(H) Performance-based and merit-based advancement policies and practices are racist;

or

(I) Any other form of race scapegoating or race stereotyping.

(2) 'Espousing personal political beliefs' means an individual, while performing official duties as part of his or her employment or engagement with a school or local school system, intentionally encouraging or attempting to persuade or indoctrinate a student, school community member, or other school personnel to agree with, adopt, or promote such individual's personal beliefs concerning divisive concepts.

(3) 'Race scapegoating' means assigning fault or blame to a race, or to an individual of a particular race because of his or her race. Such term includes, but is not limited to, any claim that an individual of a particular race, consciously and by virtue of his or her race, is inherently racist or is inherently inclined to oppress individuals of other races.

(4) 'Race stereotyping' means ascribing character traits, values, moral or ethical codes, status, or beliefs to an individual because of his or her race.

(b) Each local board of education, local school superintendent, and the governing body of each charter school shall prohibit employees from discriminating against students and other employees based on race.

(c)(1) Each local board of education, local school superintendent, and the governing body of each charter school shall ensure that curricula and training programs encourage employees and students to practice tolerance and mutual respect and to refrain from judging others based on race.

(2) Each school and local school system may provide curricula or training programs that foster learning and workplace environments where all students, employees, and school community members are respected; provided, however, that any curriculum, classroom instruction, or mandatory training program, whether delivered or facilitated by school personnel or a third party engaged by a school or local school system, shall not act upon, promote, or encourage divisive concepts.

(d) Nothing in this Code section shall be construed or applied to:

(1) Inhibit or violate the rights protected by the Constitutions of Georgia and the United States of America or undermine intellectual freedom and free expression;

70 (2) Infringe upon the intellectual vitality of students and employees of local boards of
71 education, local school systems, or other schools;

72 (3) Prohibit a local board of education, local school system, or other school from
73 promoting concepts such as tolerance, mutual respect, cultural sensitivity, or cultural
74 competency; provided, however, that such efforts do not conflict with the requirements
75 of this Code section and other applicable laws;

76 (4) Prohibit a school administrator, teacher, other school personnel, or an individual
77 facilitating a training program from responding in a professionally and academically
78 appropriate manner and without espousing personal political beliefs to questions
79 regarding specific divisive concepts raised by students, school community members, or
80 participants in a training program;

81 (5) Prohibit the discussion of divisive concepts, as part of a larger course of instruction,
82 in a professionally and academically appropriate manner and without espousing personal
83 political beliefs;

84 (6) Prohibit the full and rigorous implementation of curricula, or elements of a
85 curriculum, that are required as part of advanced placement, international baccalaureate,
86 or dual enrollment coursework; provided, however, that such implementation is done in
87 a professionally and academically appropriate manner and without espousing personal
88 political beliefs;

89 (7) Prohibit the use of curricula that addresses the topics of slavery, racial oppression,
90 racial segregation, or racial discrimination, including topics relating to the enactment and
91 enforcement of laws resulting in racial oppression, segregation, and discrimination in a
92 professionally and academically appropriate manner and without espousing personal
93 political beliefs;

94 (8) Create any right or benefit, substantive or procedural, enforceable at law or in equity,
95 by any party against a local board of education, local school system, or other school, or

the departments, agencies, entities, officers, employees, agents, or any other personnel affiliated with such local board of education, local school system, or other school; or

(9) Prohibit a state or federal court or agency of competent jurisdiction from ordering training or other remedial action that discusses divisive concepts due to a finding of discrimination, including discrimination based on race.

(e)(1) No later than August 1, 2022, each local board of education and the governing body of each charter school shall adopt a complaint resolution policy to address complaints alleging violations of any provision of subsections (b) through (d) of this Code section. The complaint resolution policy shall provide that:

(A) A school or local school system shall not be required to respond to a complaint made pursuant to this subsection unless it is made by:

(i) The parent of a student enrolled at the school where the alleged violation occurred;

(ii) A student who has reached the age of majority or is a lawfully emancipated minor and who is enrolled at the school where the alleged violation occurred; or

(iii) An individual employed as a school administrator, teacher, or other school personnel at the school where the alleged violation occurred;

(B) The complaint shall first be submitted in writing to the principal of the school where the alleged violation occurred;

(C) The complaint shall provide a reasonably detailed description of the alleged violation;

(D)(i) Within five school days of receiving such written complaint, the school principal or a designee of the charter school or local school system shall review the complaint and take reasonable steps to investigate the allegations in the complaint;

(ii) Within ten school days of receiving the complaint, unless another schedule is mutually agreed to by the complainant and the school principal or the designee of the charter school or local school system, the school principal or such designee shall

confer with the complainant and inform the complainant whether a violation occurred, in whole or in part, and, if such a violation was found to have occurred, what remedial steps have been or will be taken; provided, however, that the confidentiality of student or personnel information shall not be violated; and

(iii) Following such conference, within three school days of a request by the complainant, the school principal or the designee of the charter school or local school system shall provide to the complainant a written summary of the findings of the investigation and a statement of remedial measures, if any; provided, however, that such written response shall not disclose any confidential student or personnel information;

(E) The determinations provided for in subparagraph (D) of this paragraph shall be reviewed by the governing body of a state charter school or the local school superintendent or his or her designee, as applicable, within ten school days of receiving a written request for such review by the complainant addressed to the governing body of a state charter school or the local school superintendent, as applicable; provided, however, that confidential student or personnel matters shall not be subject to review pursuant to this subparagraph; and

(F)(i) The local school superintendent's decision following the review provided for in subparagraph (E) of this paragraph shall be subject to review by the local board of education as provided in Code Section 20-2-1160; provided, however, that confidential student or personnel matters shall not be subject to review pursuant to this division; and

(ii) The decision of the governing body of a state charter school following the review provided for in subparagraph (E) of this paragraph shall be subject to review by the State Charter Schools Commission, whereupon the State Charter Schools Commission shall take appropriate remedial measures, including, but not limited to, revocation of

a state charter school's charter; provided, however, that confidential student or personnel matters shall not be subject to review pursuant to this division.

(2) Following a decision by a local board of education regarding a complaint made pursuant to paragraph (1) of this subsection, any party aggrieved by the decision of the local board of education shall have the right to appeal such decision to the State Board of Education for a hearing as provided in Code Section 20-2-1160.

(3) The State Board of Education shall, after hearing an appeal brought pursuant to paragraph (2) of this subsection, make written findings regarding whether any violations of any provision of subsections (b) through (d) of this Code section occurred at a school in such school system. If the State Board of Education finds that one or more such violations occurred, it shall direct the Department of Education to develop a corrective action plan to be provided to the local school system within ten days of such finding, and the local school system shall have 30 days to implement the corrective action plan. If the State Board of Education finds that such local school system has not implemented the corrective action plan:

(A)(i) In cases where the local school system at issue has been granted one or more waivers as provided in Article 4 of Chapter 2 of this title, Code Section 20-2-244, or Code Section 20-2-2065, the State Board of Education shall order the immediate suspension of one or more waivers included in the local school system's contract with the State Board of Education providing for such waivers;

(ii) The State Board of Education shall exercise discretion in determining which waivers shall be subject to such order of suspension and shall, as may be reasonable and practicable, narrowly tailor such order to address specific violations of provisions of subsections (b) through (d) of this Code section; and

(iii) An order suspending a local school system's waivers pursuant to division (i) of this subparagraph shall be in effect for no less than 12 months from the date of such order and, if the remainder of the current term of such local school system's contract

with the State Board of Education providing for waivers is greater than 12 months,
then no longer than such remainder; and

(B) In cases where the local school system at issue has not been granted a waiver as
provided in Article 4 of Chapter 2 of this title, Code Section 20-2-244, or Code
Section 20-2-2065, the State Board of Education shall refer the matter to the State
School Superintendent to determine whether to exercise his or her suspension authority
as provided in Code Section 20-2-34.

(4) No later than July 1, 2022, the State Board of Education shall promulgate a model
policy to assist schools and local school systems with establishing a complaint resolution
process that meets the requirements of paragraph (1) of this subsection. The Department
of Education shall develop guidance for schools and local school systems for use when
determining whether violations of subsections (b) through (d) of this Code section have
occurred. The Department of Education shall be authorized to revise such guidance from
time to time.

(5) Nothing in this subsection shall be construed to prohibit any cause of action available
at law or in equity to a complainant who is aggrieved by a decision of a local board of
education, the governing body of a charter school, or the State Charter Schools
Commission made pursuant to subparagraph (F) of paragraph (1) of this subsection.

(f)(1) Any individual described in divisions (e)(1)(A)(i) through (iii) of this Code section
shall have the right at any time, including prior to filing a complaint as provided in
subsection (e) of this Code section, to request, in writing, from the local school
superintendent or school principal nonconfidential records which he or she reasonably
believes may substantiate a complaint under this Code section. The local school
superintendent or school principal shall produce such records for inspection within a
reasonable amount of time not to exceed three business days of receipt of a request. In
those instances where some, but not all, of the records requested are available for
inspection within three business days, the local school superintendent or school principal

203 shall make available within that period such records that are available for inspection. In
204 any instance where some or all of such records are unavailable within three business days
205 of receipt of the request, and such information exists, the local school superintendent or
206 school principal shall, within such time period, provide the requester with a description
207 of such records and a timeline for when the records will be available for inspection and
208 shall provide the records or access thereto as soon as practicable but in no case later
209 than 30 days after receipt of the request.

210 (2) If the local school superintendent or school principal denies a parent's request for
211 records or does not provide existing responsive records within 30 days, the parent may
212 appeal such denial or failure to respond to the local board of education or charter school
213 governing board. The local board of education or charter school governing board must
214 place such appeal on the agenda for its next public meeting. If it is too late for such
215 appeal to appear on the next meeting's agenda, the appeal must be included on the agenda
216 for the subsequent meeting.

217 (3) Nothing in this subsection shall be construed to prohibit any cause of action available
218 at law or in equity to a parent who is aggrieved by a decision of a local board of
219 education or the governing body of a charter school made pursuant to paragraph (2) of
220 this subsection.

221 (g) This Code section shall not be subject to waivers pursuant to Code Section 20-2-82 for
222 a strategic waivers school system; Code Section 20-2-244 for a local board of education;
223 Code Section 20-2-2063.2 for a charter system; or Code Section 20-2-2065 for a charter
224 school established pursuant to Article 31 or Article 31A of this chapter, a charter system,
225 or schools within a charter system."

SECTION 3.

Said title is further amended in Subpart 1 of Part 6 of Article 6 of Chapter 2, relating to certificated professional personnel in elementary and secondary education, by revising subsection (a) and paragraph (1) of subsection (b) of Code Section 20-2-200, relating to regulation of certificated professional personnel by Professional Standards Commission, rules and regulations, and fees, as follows:

"(a) The Professional Standards Commission shall provide, by regulation, for certifying and classifying all certificated professional personnel employed in the public schools of this state, including personnel who provide virtual instruction to public schools of this state, whether such personnel are located within or outside of this state or whether such personnel are employed by a local unit of administration. Such certification and classification shall not be dependent in whole or in part upon an individual participating in or completing any training program in which divisive concepts, as such term is defined in Code Section 20-1-11, are acted upon, promoted, or encouraged. No such personnel shall be employed in the public schools of this state unless they hold certificates issued by the commission certifying their qualifications and classification in accordance with such regulations. The commission shall establish such number of classifications of other certificated professional personnel as it may find reasonably necessary or desirable for the operation of the public schools; provided, however, that such classifications shall be based only upon academic, technical, and professional training, experience, and competency of such personnel. The commission is authorized to provide for denying a certificate to an applicant, suspending or revoking a certificate, or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and an opportunity for a hearing are provided the certificate holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The commission shall designate and define the various classifications of professional personnel employed in the public schools of this state that shall be required to be certificated under this Code section or under Code Section 20-2-206.

Without limiting the generality of the foregoing, the term 'certificated professional personnel' means all professional personnel certificated by the commission and county or regional librarians.

(b)(1) The Professional Standards Commission shall establish rules and regulations for appropriate requirements and procedures to ensure high-quality certification standards for all Georgia educators while facilitating the interstate mobility of out-of-state certified educators; provided, however, that such rules, regulations, requirements, and procedures shall not require an individual to participate in or complete any training program in which divisive concepts, as such term is defined in Code Section 20-1-11, are acted upon, promoted, or encouraged."

SECTION 4.

Said title is further amended in Subpart 1A of Part 2 of Article 16 of Chapter 2, relating to improved student learning environment and discipline in elementary and secondary education, by revising Code Section 20-2-739, relating to conflict management and resolution and cultural diversity training programs, as follows:

"20-2-739.

On and after July 1, 2000, the Department of Education shall provide training programs in conflict management and resolution and in cultural diversity for voluntary implementation by local boards of education for school employees, parents and guardians, and students; provided, however, that after July 1, 2022, such training programs shall not act upon, promote, or encourage divisive concepts, as such term is defined in Code Section 20-1-11."

SECTION 5.

Said title is further amended in Part 10 of Article 17 of Chapter 2, relating to professional standards in elementary and secondary education, by revising subsection (a) of Code Section 20-2-984, relating to Professional Standards Commission — authority to create and

278 implement standards and procedures for certifying educational personnel, recommending
279 standards and procedures for certification, continuation of teaching certificates, and
280 restrictions, as follows:

281 "(a) The commission shall create and implement standards and procedures for certifying
282 educational personnel as qualified for a certificate to practice in the public schools of
283 Georgia; provided, however, that such standards and procedures shall not require an
284 individual to participate in or complete any training program in which divisive concepts,
285 as such term is defined in Code Section 20-1-11, are acted upon, promoted, or encouraged;
286 provided, further, that such standards shall include ~~including~~ the following:

- 287 (1) Procedures for limiting the number and types of certificates to the fewest possible
288 consistent with providing qualified teachers for Georgia's schools;
- 289 (2) In-service training and related requirements needed to renew or maintain
290 certification;
- 291 (3) Multiple or alternative routes to professional teacher certification, including, but not
292 limited to, the alternative and nontraditional teacher certification programs provided for
293 in Code Section 20-2-206; and
- 294 (4) Requirements, including appropriate examinations and assessments, for acquiring and
295 maintaining certification pursuant to Code Section 20-2-200."

296 **SECTION 6.**

297 Said title is further amended in Part 10 of Article 17 of Chapter 2, relating to professional
298 standards in elementary and secondary education, by revising subsection (a) of Code
299 Section 20-2-984.1, relating to Professional Standards Commission — adoption of standards
300 of performance and a code of ethics, as follows:

301 "(a) It shall be the duty of the commission, by regulation, to adopt standards of
302 performance and a code of ethics for educators. The standards of performance and code
303 of ethics shall represent standards of performance and conduct which are generally

304 accepted by educators of this state. In adopting regulations as provided in this Code
305 section, the commission shall seek the advice of educators of this state. The standards of
306 performance and code of ethics adopted by the commission shall be limited to professional
307 performance and professional ethics. The standards of performance and code of ethics
308 adopted by the commission shall not require an individual to participate in or complete any
309 training program in which divisive concepts, as such term is defined in Code
310 Section 20-1-11, are acted upon, promoted, or encouraged."

311 **SECTION 7.**

312 All laws and parts of laws in conflict with this Act are repealed.