

SENATE BILL No. 515

By Committee on Assessment and Taxation

2-15

1 AN ACT concerning education; relating to nondiscrimination in classroom
2 instruction; establishing penalties for violations thereof; requiring the
3 state board of education to review, identify and remove inherently
4 divisive concepts from the board's policies, guidelines and other
5 materials; requiring public access to learning materials.

6
7 WHEREAS, True civic education is not political action itself but rather
8 preparation for and prerequisite to mature political life; and

9 WHEREAS, Respect for the liberties of students and teachers, the
10 views of a politically diverse citizenry and the tradition of institutional
11 neutrality that flows therefrom means that political activism has no place
12 in formal education; and

13 WHEREAS, The ability of the citizens of Kansas and its school
14 districts to control K-12 curriculum content in courses on history, civics,
15 social studies and similar topics through their elected representatives
16 should not be ceded to private entities; and

17 WHEREAS, Concepts that impute fault, blame, a tendency to oppress
18 others or the need to feel guilt or anguish to persons solely because of their
19 race, religion or sex violate the premise of individual rights, equal
20 opportunity and individual merit underpinning our constitutional republic
21 and therefore have no place in training for teachers, administrators or other
22 employees of the public education system of Kansas.

23 Now, therefore:

24 *Be it enacted by the Legislature of the State of Kansas:*

25 Section 1. (a) No school district, school, teacher or administrator shall
26 teach, instruct or make part of any course of instruction, curriculum,
27 instructional program or supplemental instruction the following prohibited
28 concepts:

29 (1) A particular race, ethnicity or sex is inherently superior or inferior
30 to another;

31 (2) individuals, by virtue of race, ethnicity or sex are inherently
32 privileged, racist, sexist or oppressive, whether knowingly or
33 unknowingly;

34 (3) individuals by virtue of race, ethnicity or sex bear responsibility
35 for actions committed in the past by members of the same race, ethnicity
36 or sex;

1 (4) individuals should feel discomfort, guilt, anguish or any other
2 form of psychological distress on account of their race or sex;

3 (5) meritocracy or other traits are racist or sexist or were created by
4 members of a particular race, ethnicity or sex for the purpose of oppressing
5 members of another race or sex;

6 (6) the United States or Kansas is fundamentally or irredeemably
7 racist or sexist;

8 (7) promoting or advocating the violent overthrow of the United
9 States government;

10 (8) promoting division between or resentment of a race, sex, religion,
11 creed, nonviolent political affiliation, social class or class of people;

12 (9) ascribing character traits, values, moral or ethical codes,
13 privileges or beliefs to a race or sex or to an individual because of the
14 individual's race or sex;

15 (10) the rule of law does not exist, but instead is a series of power
16 relationships and struggles among racial or other groups;

17 (11) all Americans are not created equal and are not endowed by their
18 Creator with certain unalienable rights, including life, liberty and the
19 pursuit of happiness; or

20 (12) government should deny to any person within the government's
21 jurisdiction the equal protection of the law.

22 (b) Notwithstanding the provisions of subsection (a), a school district,
23 school, teacher or administrator may teach, instruct or make part of any
24 course of instruction, curriculum, instructional program or supplemental
25 instruction the following concepts:

26 (1) The history of an ethnic group;

27 (2) the impartial discussion of controversial aspects of history;

28 (3) the impartial instruction on the historical oppression of a
29 particular group of people based on race, ethnicity, class, nationality,
30 religion or geographic region; or

31 (4) historical documents relevant to paragraphs (1) through (3).

32 (c) (1) A current student, parent or guardian of a current student or
33 employee of a school district may allege a violation of subsection (a) by
34 filing a complaint with the school district in which the alleged violation
35 occurred in a manner and on a form determined by the state department of
36 education. The complaint shall be filed within 30 calendar days of the
37 alleged violation.

38 (2) In addition to any other information requested by the school
39 district, the following information shall be included in the complaint on
40 the form provided by the state department of education:

41 (A) The name and contact information of the complainant;

42 (B) a brief description of the prohibited concept that is the reason for
43 the complaint;

- 1 (C) a brief statement on why the concept is a prohibited concept;
- 2 (D) the name of the individual alleged to have included or promoted
- 3 the prohibited concept;
- 4 (E) the name of any individuals who may have knowledge of the
- 5 allegation;
- 6 (F) a list of any documentation or materials supporting the allegation,
- 7 including copies of such documents or materials if possible; and
- 8 (G) the approximate date on which the prohibited concept was
- 9 included or promoted.
- 10 (d) The school district shall investigate the complaint if the school
- 11 district determines:
- 12 (1) The complaint alleges that a prohibited concept was included in a
- 13 course of instruction, curriculum, instructional program or supplemental
- 14 instructional materials;
- 15 (2) the complaint is filed by a current student enrolled in a school of
- 16 the school district, a parent or guardian of a current student or a current
- 17 employee of the school district in which the allegation arose; and
- 18 (3) the complaint was filed within 30 calendar days of the alleged
- 19 violation.
- 20 (4) Except as provided in subsection (e), within 60 days of a
- 21 complaint being filed and upon completion of an investigation of a
- 22 complaint, the school district shall issue a written determination of such
- 23 investigation. The school district shall send the written determination to
- 24 the complainant and any individual alleged to have violated this section in
- 25 the complaint. The complaint is substantiated if the school district
- 26 determines:
- 27 (A) The concept at issue is a prohibited concept; and
- 28 (B) the concept at issue was affirmatively included or promoted in a
- 29 course of instruction, curriculum, instructional program or supplemental
- 30 instructional materials.
- 31 (5) The state department of education may extend the 60-day deadline
- 32 if exceptional circumstances exist with respect to a particular complaint
- 33 and are documented. The department shall notify the complainant in
- 34 writing if the department extends the deadline.
- 35 (6) If the investigation substantiates the alleged violation, remedial
- 36 action shall be taken by the school district. Such remedial action shall
- 37 not be taken within 15 days after the written determination is issued. Such
- 38 remedial action may include:
- 39 (A) Amendment of the course of instruction, curriculum, instructional
- 40 program or supplemental instructional materials; or
- 41 (B) disciplinary action against the individual who violated this
- 42 section.
- 43 (7) The school district shall maintain an investigative file containing

1 the complaint, the initiating letter, any interview notes, evidence obtained
2 or other documents maintained by the investigator and a copy of the
3 written determination issued in the matter.

4 (e) (1) School districts are encouraged to work collaboratively with
5 students, parents, guardians, teachers or other employees to resolve
6 concerns and complaints as quickly as possible. At any point after a
7 complaint has been filed but before a final written determination has been
8 issued, the school district, complainant or individual alleged to have
9 violated this section may propose a resolution agreement to resolve the
10 violation.

11 (2) If a proposed resolution agreement is approved by the school
12 district, the complainant and any individual alleged to have violated this
13 section, the school district shall prepare a written resolution agreement
14 summarizing the allegations and any agreed upon terms of the early
15 resolution. Once a written resolution agreement is sent to the complainant
16 and individual alleged to have violated this section, the complaint shall be
17 deemed resolved and the school district is not required to complete an
18 investigation or issue a written determination.

19 (3) Entry into an early resolution agreement shall not constitute an
20 admission of a violation of this section.

21 (4) The 60-day deadline for a school district to complete an
22 investigation shall not be extended for the purpose of discussing or
23 finalizing a resolution agreement.

24 (5) If a resolution agreement is not enforced, the complainant may
25 file a new complaint based on the allegations in the original complaint.

26 (f) (1) The complainant or the individual alleged to have violated this
27 section may appeal the school district's written determination to the state
28 department of education within 15 calendar days of the issuance of the
29 written determination. The state department of education shall review the
30 appeal if:

31 (A) The original complaint filed with the school district alleged that a
32 prohibited concept was included in a course of instruction, curriculum,
33 instructional program or supplemental instructional materials;

34 (B) the original complaint was filed with the school district within 30
35 days of the alleged violation;

36 (C) the original complaint was filed by a current student enrolled in a
37 school of the school district, a parent or guardian of a current student or a
38 current employee of the school district in which the allegation arose; and

39 (D) the appeal was filed by the complainant or individual alleged to
40 have violated this section.

41 (2) Within 60 days of receiving the appeal, the state department of
42 education shall submit an investigative report summarizing the findings of
43 the department's investigation to the commissioner of education. The

1 report shall include a recommendation as to whether the commissioner
2 should find a violation of this section.

3 (3) After receiving the investigative results from the department, but
4 not later than 60 calendar days after receiving the appeal, the
5 commissioner shall issue a written determination of the investigation. The
6 commissioner shall send the written determination to the complainant and
7 any individual alleged to have violated this section in the complaint. The
8 written determination shall include:

9 (A) A determination of whether the allegation in the original
10 complaint is substantiated;

11 (B) a determination of whether the school district knowingly violated
12 this section. A school district knowingly violates this section if the school
13 district:

14 (i) Received a complaint the school district had authority to
15 investigate but failed to initiate an investigation;

16 (ii) initiated an investigation but failed to meet the deadline to issue a
17 written determination provided in subsection (b); or

18 (iii) became aware of a violation of this section either by a complaint
19 or other means but failed to remedy such violation; and

20 (C) a statement that the school district has the right to request a
21 contested case hearing within 30 calendar days of the date of the written
22 determination and any such hearing will be conducted in accordance with
23 the Kansas administrative procedure act.

24 (4) The commissioner may extend the 60-day deadline if exceptional
25 circumstances exist with respect to a particular complaint and are
26 documented. The commissioner shall notify the complainant in writing if
27 the commissioner extends the deadline.

28 (g) If the allegation in the complaint is upheld on appeal to the
29 department, the school district shall determine whether disciplinary action
30 is warranted against the individual deemed to have violated this section.

31 (h) (1) If the commissioner determines that the school district
32 knowingly violated this section, the school district shall be required to
33 enter into a corrective action plan with the state department of education
34 and the department shall withhold the payment of state funds scheduled to
35 be distributed to the school district in accordance with paragraph (4) until
36 the requirements of the corrective action plan have been met.

37 (2) The corrective action plan shall identify:

38 (A) Any evidence required by the department to determine that the
39 corrective action is being taken;

40 (B) specific acts the school district is required to take to resolve the
41 violation;

42 (C) deadlines for completion of any acts the school district is required
43 to take; and

1 (D) dates for submission of reports and documentation to the
2 department verifying implementation and completion of any action taken
3 pursuant to the corrective action plan.

4 (3) If a school district enters into a corrective action plan with the
5 department, the department shall:

6 (A) Monitor the corrective action plan to ensure the school district is
7 complying with the terms of the plan;

8 (B) provide written notice to the school district of any deficiencies in
9 implementation and request appropriate and immediate action to address
10 such deficiencies;

11 (C) make additions to the corrective action plan if necessary to
12 address the failure of the school district to fully implement the required
13 actions in the corrective action plan; and

14 (D) when the department determines the school has fully
15 implemented the required actions of the plan, send written notice to the
16 school district that the school district is in compliance and the corrective
17 action plan has been completed.

18 (4) The amount of state funds to be withheld until the requirements of
19 the corrective action plan are met is as follows:

20 (A) For a first determination of a knowing violation during the school
21 year, 2% of state foundation aid or \$1 million, whichever is less, shall be
22 withheld for the succeeding school year;

23 (B) for a second determination of a knowing violation during the
24 school year, 4% of state foundation aid or \$2 million, whichever is less,
25 shall be withheld for the succeeding school year;

26 (C) for a third determination of a knowing violation during the school
27 year, 6% of state foundation aid or \$3 million, whichever is less, shall be
28 withheld for the succeeding school year;

29 (D) for a fourth determination of a knowing violation during the
30 school year, 8% of state foundation aid or \$4 million, whichever is less,
31 shall be withheld for the succeeding school year; and

32 (E) for a fifth and any subsequent determination of a knowing
33 violation during the school year, 10% of state foundation aid or \$5 million,
34 whichever is less, shall be withheld for the succeeding school year.

35 Sec. 2. (a) The state board of education shall review all state
36 department of education policies, guidelines, best practices, webpages and
37 other materials produced by the department of education to identify those
38 that promote inherently divisive concepts, including concepts or ideas
39 related to critical race theory. If the state board identifies any inherently
40 divisive concepts in the department's policies, guidelines, best practices,
41 webpages or other materials, the state board shall remove any such
42 inherently divisive concepts.

43 (b) The state board of education and local boards of education shall

1 provide comprehensive education of world history, United States history
2 and Kansas history without the influence of inherently divisive concepts,
3 including critical race theory.

4 (c) Each school district shall make all learning materials used in the
5 classroom available to members of the public. School districts shall adopt
6 policies to ensure open access to such learning materials and address any
7 concerns or complaints regarding open access in a timely manner.

8 (d) As used in this section, "inherently divisive concepts" means
9 advancing any ideas in violation of title IV and title VII of the civil rights
10 act of 1964, including, but not limited to:

11 (1) Any race, ethnicity, sex or religion is inherently superior to
12 another;

13 (2) an individual, by virtue of such individual's race, ethnicity, sex or
14 religion is racist, sexist or oppressive, whether consciously or
15 subconsciously;

16 (3) an individual's moral character is inherently determined by such
17 individual's race, ethnicity, sex or religion; or

18 (4) an individual by virtue of such individual's race, ethnicity, sex or
19 religion bears responsibility for actions committed by other members of
20 the same race, ethnicity, sex or religion.

21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.