

The Senate Committee on Education and Youth offered the following substitute to SB 377:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 20 and 50 of the Official Code of Georgia Annotated, relating to education
2 and state government, respectively, so as to require state agencies, local boards of education,
3 and local school systems to take measures to prevent the use of curricula or training
4 programs which act upon, promote, or encourage certain concepts, with exceptions; to
5 provide for such exceptions; to provide for construction; to require such entities to prohibit
6 discrimination on the basis of race, skin color or ethnicity; to require that diversity and
7 inclusion training programs and similar efforts directed to the employees or students of such
8 entities shall encourage such employees or students not to judge others based on skin color
9 or ethnicity; to provide for a complaint resolution policy, process, and appeals for local
10 school systems; to provide for promulgation of model policy and guidance by the State Board
11 of Education; to provide for penalties; to provide for remedies; to provide for certain
12 responsibilities of state agency heads; to provide for definitions; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Chapter 2, relating to elementary and secondary education, by adding a new Code section to read as follows:

"20-2-243.1.

(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 or ethnicity is inherently superior to another race or ethnicity;

(B) The United States of America and the State of Georgia are fundamentally or systemically racist;

(C) An individual, solely because of his or her race, skin color, or ethnicity, is inherently racist or oppressive, whether consciously or subconsciously;

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

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

(F) An individual, because of his or her race, skin color, or ethnicity, bears responsibility for actions committed by other individuals of the same race, skin color, or ethnicity, whether past or present;

(G) An individual should feel demeaned or caused to feel guilt by a teacher because of the individual's race, skin color, or ethnicity;

(H) Performance based advancement or traits such as a hard work ethic are racist or were created by individuals of a particular race to oppress individuals of another race; or

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

(2) 'Race or ethnic scapegoating' means assigning fault, blame, or bias to a race or ethnicity or to an individual of a particular race or ethnicity because of his or her race or ethnicity. Such term includes, but is not limited to, any claim that an individual of a particular race or ethnicity is inherently racist or is inherently inclined to oppress others.

(3) 'Race or ethnic stereotyping' means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or ethnicity, or to an individual because of his or her race or ethnicity.

(b) Each local board of education and local school superintendent shall prohibit employees from discriminating against students and other employees based on race, skin color, or ethnicity.

(c)(1) Each local board of education and local school superintendent shall ensure that all diversity and inclusion efforts directed to the employees of their respective school systems shall encourage such employees not to judge students, other employees, or other individuals based on race, skin color, or ethnicity.

(2) Each local board of education and local school superintendent may provide for curricula and training programs that foster learning and workplace environments where all students, employees, and school community members are respected and that promote diversity and inclusiveness; provided, however, that any curriculum or mandatory training program, whether taught or facilitated by school personnel or a third party engaged by a local board of education or a local school system, shall not inculcate or advocate for implementation of divisive concepts; and provided, further, that this subsection shall not be construed to prohibit a school administrator, teacher, other school personnel, or an individual facilitating a training program from responding in an objective manner and without endorsement to questions regarding specific divisive concepts raised by students, school community members, or participants in a training program.

(d) Nothing in this Code section shall be construed to do any of the following:

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

69 (2) Infringe upon the intellectual vitality of students and employees of local boards of
70 education and local school systems;

71 (3) Prevent a local board of education or local school system from promoting diversity
72 or inclusiveness; provided, however, that such efforts do not conflict with the
73 requirements of this Code section and other applicable laws;

74 (4) Prohibit the discussion of divisive concepts, as part of a larger course of instruction,
75 in an objective manner and without endorsement;

76 (5) Prohibit the use of curriculum that addresses topics of slavery, racial or ethnic
77 oppression, racial or ethnic segregation, or racial or ethnic discrimination, including
78 topics relating to the enactment and enforcement of laws resulting in such oppression,
79 segregation, and discrimination;

80 (6) Create any right or benefit, substantive or procedural, enforceable at law or in equity
81 by any party against a local board of education or a local school system, or its
82 departments, agencies, or entities, its officers, employees, or agents, or any other person;
83 or

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

87 (e)(1) No later than August 1, 2022, each local board of education shall adopt a
88 complaint resolution policy for its local school system to address complaints alleging
89 violations of any provision of subsections (b) through (d) of this Code section at a school
90 in such school system. The complaint resolution policy shall provide that:

91 (A) A school or local school system shall not be required to respond to a complaint
92 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;

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

(iv) The district attorney for the county where the alleged violation occurred;

(v) The Attorney General;

(vi) The House Education Committee; or

(vii) The Senate Committee on Education and Youth.

(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) Within three school days of receiving such written complaint, the school principal or his or her designee shall review the complaint and take reasonable steps to investigate the allegations in the complaint;

(E) The school principal shall determine whether the alleged violation occurred, in whole or in part;

(F) Within five school days of receiving the complaint, unless another schedule is mutually agreed to by the complainant and the school principal, the school principal 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 will be taken; provided, however, that the confidentiality of student or personnel information will not be violated;

(G) The school principal's determinations provided for in subparagraphs (E) and (F) of this paragraph shall be subject to timely administrative review by the local school

superintendent or his or her designee upon a written request by the complainant to the local school superintendent; and

(H) The local school superintendent's decision following the administrative review provided for in subparagraph (G) of this paragraph shall be subject to review by the local board of education pursuant to Code Section 20-2-1160.

(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 pursuant to subsection (b) of 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 for a complaint resolution process that meets the requirements of paragraph (1) of this subsection. The Department of Education shall develop and provide guidance for 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 model policy and guidance from time to time and shall post such policy and guidance on its website in order to assist local school systems."

SECTION 2.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new Code section to read as follows:

"50-1-11.

(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 or ethnicity is inherently superior to another race or ethnicity;

(B) The United States of America and the State of Georgia are fundamentally or systemically racist;

(C) An individual, solely because of his or her race, skin color, or ethnicity, is inherently racist or oppressive, whether consciously or subconsciously;

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

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

(F) An individual, because of his or her race, skin color, or ethnicity, bears responsibility for actions committed by other individuals of the same race, skin color, or ethnicity, whether past or present;

(G) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of his or her race, skin color, or ethnicity;

(H) Meritocracy or traits such as a hard work ethic are racist or were created by individuals of a particular race to oppress individuals of another race; or

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

(2) 'Race or ethnic scapegoating' means assigning fault, blame, or bias to a race or ethnicity or to an individual of a particular race or ethnicity because of his or her race, skin color, or ethnicity. Such term includes, but is not limited to, any claim that an individual of a particular race or ethnicity, consciously or subconsciously, and by virtue of his or her race or ethnicity, is inherently racist or is inherently inclined to oppress others.

(3) 'Race or ethnic stereotyping' means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or ethnicity, or to an individual because of his or her race or ethnicity.

(4) 'State agency' or 'agency' means any department, division, board, bureau, commission, or other agency of the state government or any state authority.

(b) Each state agency shall prohibit its employees from discriminating against other employees based on race, skin color, or ethnicity.

(c) The head of each state agency shall:

(1) Ensure that his or her respective agency, agency employees while acting within the scope of their employment, and any contractors engaged by the agency to provide training programs to agency employees do not act upon, promote, or encourage divisive concepts in any training program for agency employees; provided, however, that this paragraph shall not be construed to prohibit an individual who facilitates an employee training program from responding in an objective manner and without endorsement to questions regarding specific divisive concepts raised by participants in a training program;

(2) Ensure that all agency diversity and inclusion training, workshops, programs, and other efforts encourage agency employees not to judge each other based on race, skin color, or ethnicity; and

(3) Take appropriate disciplinary action against any agency employee or contractor engaged by the agency who authorizes or approves a training program that acts upon, promotes, or encourages divisive concepts.

(d)(1) This Code section shall not be construed to prohibit any state agency from promoting diversity or inclusiveness, so long as such efforts do not conflict with the requirements of this Code section.

(2) This Code section shall not be construed to prohibit the discussion of divisive concepts, as part of a larger discussion related to workplace policies or training programs, in an objective manner and without endorsement."

SECTION 3.

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