



ARIZONA HOUSE OF REPRESENTATIVES

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Senate: ED DP 4-3-1-0 | 3rd Read 17-11-2-0
House: APPROP DPA/SE 8-5-0-0 | 3rd Read 31-27-2-0

SB 1412: baccalaureate degrees; substitute certificates

NOW: race; ethnicity; sex; classroom instruction

Sponsor: Senator Mesnard, LD 17

Conference Committee

Overview

Prohibits a public educational institution employee or an individual or organization invited to a public educational institution (invited individual or organization) from providing instruction that promotes or advocates for specified concepts relating to race or ethnicity. Establishes a complaint process and civil penalty for violations of the prohibition on specified instruction.

History

Statute provides that a school district or charter school may not include in its program of instruction any courses that: 1) promote the overthrow of the United States government; 2) promote resentment toward a race or class of people; 3) are designed primarily for pupils of a particular ethnic group; or 4) advocate ethnic solidarity instead of the treatment of pupils as individuals. However, the following may not be restricted or prohibited: 1) courses for Native American pupils that are required to comply with federal law; 2) the grouping of students according to academic performance that may result in disparate impact by ethnicity; 3) courses that include the history of any ethnic group and that are open to all students; and 4) courses that include the discussion of controversial aspects of history.

If a school district or charter school is found to be in violation of this prohibition on courses and fails to correct the violation within 60 days of notice, the school district or charter school may have up to 10% of its monthly state aid apportionment withheld ([A.R.S. § 15-112](#)). However, in 2017, a federal court invalidated this statute, finding it to be unconstitutional (*González v. Douglas*, 269 F. Supp. 3d 948 (D. Ariz. 2017)).

School district governing boards (governing boards) must prescribe curricula that include the academic standards in at least the areas of reading, writing, mathematics, science and social studies for students in common school and high school grades (A.R.S. §§ [15-701](#), [15-701.01](#)).

Provisions

Prohibition on Specified Instruction

1. Prohibits a public educational institution employee who is acting in the course of their official duties or an invited individual or organization from providing instruction to students or employees that promotes or advocates for the following concepts:
 - a) Blame or judgment on the basis of race or ethnicity;
 - b) That one race or ethnic group is inherently morally or intellectually superior to another race or ethnic group;
 - c) That an individual, by virtue of their race or ethnicity, is inherently racist or oppressive;
 - d) That an individual should be invidiously discriminated against or receive adverse treatment because of their race or ethnicity;
 - e) That an individual's moral character is determined by their race or ethnicity;

- f) That an individual, by virtue of their race or ethnicity, bears responsibility for actions committed by other members of the same race or ethnic group; and
 - g) That academic achievement, meritocracy or other traits are racist or were created by members of a particular race or ethnic group to oppress members of another race or ethnic group. (Sec. 2)
2. Authorizes an attorney acting on behalf of a public educational institution to request a legal opinion of the Attorney General (AG) or county attorney as to whether a proposed action would violate the prohibition on specified instruction. (Sec. 2)
 3. Subjects a teacher who violates the prohibition on specified instruction to disciplinary action as deemed appropriate by the State Board of Education (SBE). (Sec. 2)
 4. Asserts that a public educational institution employee or an invited individual or organization is not prevented from identifying and discussing historical movements, ideologies or instances of racial hatred or discrimination. (Sec. 2)
 5. Applies the prohibition on specified instruction to postsecondary institution employees or invited organizations or individuals only when the employee, organization or individual is providing instruction to students as part of a course or activity that is specific to and required for a teacher preparation program. (Sec. 2)
 6. Excludes, from the prohibition on specified instruction, postsecondary institution employees or invited organizations or individuals when the employee, organization or individual is providing instruction to students for:
 - a) A general studies requirement; or
 - b) An elective course or any other course or activity that is not specific to and required for a teacher preparation program. (Sec. 2)

Complaint Process and Civil Penalty

7. Allows a student, employee or student's parent to file a complaint with a designated administrator of the public educational institution if the student, employee or parent's child allegedly receives instruction in violation of the prohibition on specified instruction. (Sec. 2)
8. Prevents a student, employee or student's parent from filing more than one complaint of an alleged violation in any 30-day period. (Sec. 2)
9. States a complaint may identify multiple violations of the prohibition on specified instruction. (Sec. 2)
10. Instructs the designated administrator to determine whether the violation occurred and act to resolve the complaint if a violation occurred. (Sec. 2)
11. Classifies a school district superintendent and a charter school operator as designated administrators for a school district or district school and charter school, respectively. (Sec. 2)
12. Permits a student, employee or student's parent to appeal a determination made or an action taken by a school district superintendent, charter school operator or a designated administrator of a postsecondary institution by filing a complaint with the:
 - a) Governing board;
 - b) Charter school governing body (governing body);
 - c) Arizona Board of Regents (ABOR); or
 - d) Community college district governing board (CCD governing board). (Sec. 2)
13. Directs a governing board, governing body, ABOR or CCD governing board to:
 - a) Schedule a hearing to determine whether a violation occurred;

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- b) Act to resolve the complaint within 30 days if a violation occurred; and
 - c) Include an explanation of any decision made regarding a complaint. (Sec. 2)
14. Authorizes a student, employee or student's parent seeking to appeal a determination made or an action taken by the following entities to file a claim in superior court:
 - a) A designated administrator of a public educational institution other than a school district, public school or postsecondary institution; and
 - b) A governing board, governing body, ABOR or a CCD governing board. (Sec. 2)
 15. Allows the AG or county attorney to initiate a suit in superior court to comply with the prohibition on specified instruction. (Sec. 2)
 16. Permits the court to impose a civil penalty of, at most, \$5,000 per day on the public educational institution for each day that a person violates the prohibition on specified instruction. (Sec. 2)
 17. Prevents the court from imposing a civil penalty if the public educational institution received a legal opinion from the AG or county attorney that concluded that the action that is the subject of the violation would not violate the prohibition on specified instruction. (Sec. 2)

Miscellaneous

18. Defines *instruction* to include:
 - a) Educational activities;
 - b) Training; and
 - c) Instruction that is part of a teacher preparation program, continuing education or professional development. (Sec. 2)
19. Defines *public educational institution* to mean:
 - a) A school district, district school or charter school;
 - b) The Arizona Department of Education;
 - c) SBE;
 - d) The Arizona State Schools for the Deaf and the Blind;
 - e) The Arizona State Board for Charter Schools;
 - f) A university under the jurisdiction of ABOR; and
 - g) A CCD and community college. (Sec. 2)
20. Defines *community college*, *community college district* and *postsecondary institution*. (Sec. 2)
21. Allows age- and grade-appropriate classroom instruction regarding child assault awareness and abuse prevention. (Sec. 2)
22. Repeals statutes relating to:
 - a) Child assault awareness and abuse prevention instruction; and
 - b) Prohibited instruction. (Sec. 1)

Conference Committee Amendments

1. Applies the prohibition on specified instruction to an employee of, or an individual or organization invited to, a public school, school district or state agency that is involved with students or teachers of preschool, kindergarten or the 1st-12th grades, rather than a public educational institution.
2. Modifies the concepts included in the prohibition on specified instruction.
3. Deletes language that allows:
 - a) An attorney acting on behalf of a public educational institution to request a legal opinion of the AG or county attorney as to whether a proposed action would violate the prohibition on specified instruction; and

- b) Specified individuals to file a claim in superior court to comply with the prohibition on specified instruction.
4. Authorizes a student, employee or student's parent to file a complaint with SBE or the Superintendent of Public Instruction (SPI) for an alleged violation of the prohibition on specified instruction after the public school, school district or state agency has had the opportunity to resolve the complaint as outlined.
 5. Instructs SBE or the SPI, if it is determined there is a violation of the prohibition on specified instruction, to notify a public school, school district or state agency that it is in violation.
 6. Authorizes SBE or the SPI to impose a civil penalty of, at most, \$5,000 for each violation.
 7. Stipulates that if SBE or the SPI determine that the public school, school district or state agency has failed to correct the violation within 30 days after notice, SBE or the SPI must impose a civil penalty of not more than \$5,000 for each day the violation continues after the 30-day period.
 8. Subjects the actions of SBE or the SPI to statutory uniform administrative hearing procedures.
 9. Adds that noncertificated person who violates the prohibition on specified instruction may be subject to disciplinary action as deemed appropriate by SBE.
 10. Defines *employee* and *state agency*.