

House Bill 1084 (AS PASSED HOUSE AND SENATE)

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 advocate for
3 certain concepts, with exceptions; to provide for such exceptions; to require local boards of
4 education, local school superintendents, and the governing bodies of charter schools to
5 prohibit discrimination on the basis of race; to require that curricula and training programs
6 shall encourage such employees not to judge others based on race; to provide for statutory
7 construction; to provide for complaint resolution policies and procedures; to provide for
8 promulgation of a model policy by the State Board of Education; to provide for guidance to
9 schools and local school systems by the Department of Education; to provide for a process
10 by which certain individuals shall have access to certain records; to provide for penalties; to
11 prohibit certain waivers; to prohibit basing certification and classification of certain
12 professional personnel upon completion of training programs which advocate for certain
13 concepts; to prohibit certain performance standards and the code of ethics for educators to
14 require completion of training programs which advocate for certain concepts; to provide for
15 definitions; to provide for a short title; to provide for construction; to provide that no high
16 school that receives QBE funds shall participate in, sponsor, or provide coaching staff for
17 interscholastic sports events which are conducted under the authority of, conducted under the
18 rules of, or scheduled by any athletic association unless such athletic association provides for

an executive oversight committee; to provide for the appointment, membership, selection of officers, meetings, duties, and authorities of such executive oversight committee; to provide for reimbursement for such executive oversight committee; to provide for noncompliant high schools to forfeit QBE funding; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

SECTION 1-2.

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, solely 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, solely by virtue of his or her race, should feel anguish, guilt, or any other form of psychological distress;

(H) Performance-based advancement or the recognition and appreciation of character traits such as a hard work ethic are racist or have been advocated for by individuals of a particular race to oppress individuals of another race; 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 or advocate for 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 advocate for 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;

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

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

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

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

(6) Prohibit the full and rigorous implementation of curricula, or elements of a curriculum, that are required as part of advanced placement, international baccalaureate, or dual enrollment coursework; provided, however, that such implementation is done in

a professionally and academically appropriate manner and without espousing personal political beliefs;

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

(8) Create any right or benefit, substantive or procedural, enforceable at law or in equity, 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;

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

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

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

128 (ii) Within ten school days of receiving the complaint, unless another schedule is
129 mutually agreed to by the complainant and the school principal or the designee of the
130 charter school or local school system, the school principal or such designee shall
131 confer with the complainant and inform the complainant whether a violation occurred,
132 in whole or in part, and, if such a violation was found to have occurred, what remedial
133 steps have been or will be taken; provided, however, that the confidentiality of student
134 or personnel information shall not be violated; and

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

141 (E) The determinations provided for in subparagraph (D) of this paragraph shall be
142 reviewed by the governing body of a state charter school or the local school
143 superintendent or his or her designee, as applicable, within ten school days of receiving
144 a written request for such review by the complainant addressed to the governing body
145 of a state charter school or the local school superintendent, as applicable; provided,
146 however, that confidential student or personnel matters shall not be subject to review
147 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 shall make available within that period such records that are available for inspection. In any instance where some or all of such records are unavailable within three business days of receipt of the request, and such information exists, the local school superintendent or school principal shall, within such time period, provide the requester with a description of such records and a timeline for when the records will be available for inspection and shall provide the records or access thereto as soon as practicable but in no case later than 30 days after receipt of the request.

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

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

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

SECTION 1-3.

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 advocated for. 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 advocated for."

SECTION 1-4.

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 advocate for divisive concepts, as such term is defined in Code Section 20-1-11."

SECTION 1-5.

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

“(a) The commission shall create and implement standards and procedures for certifying educational personnel as qualified for a certificate to practice in the public schools of Georgia;; provided, however, that such standards 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 advocated for; provided, further, that such standards shall include ~~including~~ the following:

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

SECTION 1-6.

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

305 Section 20-2-984.1, relating to Professional Standards Commission — adoption of standards
306 of performance and a code of ethics, as follows:

307 "(a) It shall be the duty of the commission, by regulation, to adopt standards of
308 performance and a code of ethics for educators. The standards of performance and code
309 of ethics shall represent standards of performance and conduct which are generally
310 accepted by educators of this state. In adopting regulations as provided in this Code
311 section, the commission shall seek the advice of educators of this state. The standards of
312 performance and code of ethics adopted by the commission shall be limited to professional
313 performance and professional ethics. The standards of performance and code of ethics
314 adopted by the commission shall not require an individual to participate in or complete any
315 training program in which divisive concepts, as such term is defined in Code
316 Section 20-1-11, are advocated for."

317 PART II

318 SECTION 2-1.

319 Said title 20 is further amended in Part 14 of Article 6 of Chapter 2, relating to other
320 educational programs under the Quality Basic Education Act, by adding a new subsection
321 to Code Section 20-2-316, relating to involvement of athletic associations in high school
322 athletics, to read as follows:

323 "(c)(1) No high school which receives funding under this article shall participate in,
324 sponsor, or provide coaching staff for interscholastic sports events which are conducted
325 under the authority of, conducted under the rules of, or scheduled by any athletic
326 association unless the athletic association complies with the provisions of this subsection
327 by having a charter, bylaws, and other governing documents which provide for
328 governance and operational oversight by an executive oversight committee as follows:

329 (A) The executive oversight committee shall comprise ten members as follows:

330 (i) One member to be appointed by the Governor;

331 (ii) One member to be appointed by the Lieutenant Governor;

332 (iii) One member to be appointed by Speaker of the House of Representatives;

333 (iv) Two members to be appointed by the Georgia School Superintendents
334 Association, with one such member representing approximately one-half of the
335 athletic association's participating schools with classifications by the athletic
336 association based on lower student enrollment figures and the other such member
337 representing approximately one-half of the athletic association's participating schools
338 with classifications by the athletic association based on higher student enrollment
339 figures;

340 (v) One member to be appointed by the Georgia School Boards Association;

341 (vi) One member to be appointed by a state-wide association of high school athletic
342 coaches with a current membership of not less than 300 Georgia residents and which
343 is recognized by a majority of the executive oversight committee;

344 (vii) One member to be appointed by a state-wide association of high school athletic
345 officials, referees, and umpires with a current membership of not less than 300
346 Georgia residents and which is recognized by a majority of the executive oversight
347 committee; and

348 (viii) Two members to be appointed by the governing body of the athletic
349 association, with one such member representing approximately one-half of the athletic
350 association's participating schools with classifications by the athletic association
351 based on lower student enrollment figures and the other such member representing
352 approximately one-half of the athletic association's participating schools with
353 classifications by the athletic association based on higher student enrollment figures;

354 (B) A quorum of the executive oversight committee shall consist of 6 members;

355 (C) The executive oversight committee shall elect a chairperson and vice chairperson
356 from among its members;

(D) Members of the executive oversight committee shall serve terms of three years and are eligible to succeed themselves only once. The athletic association's bylaws shall establish a rotation of terms to ensure that a majority of the members' terms do not expire concurrently. The athletic association's bylaws shall provide for successors to such members who vacate office for any reason;

(E) The authority and duties of the executive oversight committee shall include:

(i) To meet in person or remotely not less than twice each school year;

(ii) To meet in person or remotely upon the call of the chairperson or a majority of the executive oversight committee;

(iii) To establish policies and procedures for the executive oversight committee;

(iv) To conduct any independent audit, review, or investigation the executive oversight committee deems necessary, including, but not limited to, the audit, review, or investigation of the classifications of participating schools and travel-related issues of participating schools;

(v) If the athletic association determines that it is necessary and appropriate to prohibit students whose gender is male from participating in athletic events that are designated for students whose gender is female, then the athletic association may adopt a policy to that effect; provided, however, that such policy shall be applied to all of the athletic association's participating public high schools; and

(vi) To conduct an annual evaluation of the athletic association as a whole and present a report of its findings, recommendations, and conclusions to the General Assembly's High School Athletics Overview Committee; and

(F) Travel and other expenses actually incurred by the executive oversight committee, or any member thereof in the performance of his or her duties, shall be reimbursed by the athletic association.

(2) Any high school that participates in, sponsors, or provides coaching staff for interscholastic sports events which are conducted under the authority of, conducted under

384 the rules of, or scheduled by any athletic association that does not comply with the
385 provisions of this Code section shall forfeit its allotted funding provided for under this
386 article."

387 **PART III**

388 **SECTION 3-1.**

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