

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

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

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25 **PART I**

26 **SECTION 1-1.**

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

28 **SECTION 1-2.**

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

32 "20-1-11.

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

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

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

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

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

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

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

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

45 (G) An individual, solely by virtue of his or her race, should feel anguish, guilt, or any
46 other form of psychological distress;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

102 (8) Create any right or benefit, substantive or procedural, enforceable at law or in equity,
103 by any party against a local board of education, local school system, or other school, or
104 the departments, agencies, entities, officers, employees, agents, or any other personnel
105 affiliated with such local board of education, local school system, or other school; or

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

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

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

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

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

119 (iii) An individual employed as a school administrator, teacher, or other school
120 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

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

153 (ii) The decision of the governing body of a state charter school following the review
154 provided for in subparagraph (E) of this paragraph shall be subject to review by the
155 State Charter Schools Commission, whereupon the State Charter Schools Commission
156 shall take appropriate remedial measures, including, but not limited to, revocation of
157 a state charter school's charter; provided, however, that confidential student or
158 personnel matters shall not be subject to review pursuant to this division.

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

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

172 (A)(i) In cases where the local school system at issue has been granted one or more
173 waivers as provided in Article 4 of Chapter 2 of this title, Code Section 20-2-244, or
174 Code Section 20-2-2065, the State Board of Education shall order the immediate

175 suspension of one or more waivers included in the local school system's contract with
176 the State Board of Education providing for such waivers;

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

181 (iii) An order suspending a local school system's waivers pursuant to division (i) of
182 this subparagraph shall be in effect for no less than 12 months from the date of such
183 order and, if the remainder of the current term of such local school system's contract
184 with the State Board of Education providing for waivers is greater than 12 months,
185 then no longer than such remainder; and

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

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

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

202 (f)(1) Any individual described in divisions (e)(1)(A)(i) through (iii) of this Code section
203 shall have the right at any time, including prior to filing a complaint as provided in
204 subsection (e) of this Code section, to request, in writing, from the local school
205 superintendent or school principal nonconfidential records which he or she reasonably
206 believes may substantiate a complaint under this Code section. The local school
207 superintendent or school principal shall produce such records for inspection within a
208 reasonable amount of time not to exceed three business days of receipt of a request. In
209 those instances where some, but not all, of the records requested are available for
210 inspection within three business days, the local school superintendent or school principal
211 shall make available within that period such records that are available for inspection. In
212 any instance where some or all of such records are unavailable within three business days
213 of receipt of the request, and such information exists, the local school superintendent or
214 school principal shall, within such time period, provide the requester with a description
215 of such records and a timeline for when the records will be available for inspection and
216 shall provide the records or access thereto as soon as practicable but in no case later
217 than 30 days after receipt of the request.

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

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

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

234 **SECTION 1-3.**

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

240 "(a) The Professional Standards Commission shall provide, by regulation, for certifying
241 and classifying all certificated professional personnel employed in the public schools of
242 this state, including personnel who provide virtual instruction to public schools of this state,
243 whether such personnel are located within or outside of this state or whether such personnel
244 are employed by a local unit of administration. Such certification and classification shall
245 not be dependent in whole or in part upon an individual participating in or completing any
246 training program in which divisive concepts, as such term is defined in Code
247 Section 20-1-11, are advocated for. No such personnel shall be employed in the public
248 schools of this state unless they hold certificates issued by the commission certifying their
249 qualifications and classification in accordance with such regulations. The commission
250 shall establish such number of classifications of other certificated professional personnel
251 as it may find reasonably necessary or desirable for the operation of the public schools;
252 provided, however, that such classifications shall be based only upon academic, technical,
253 and professional training, experience, and competency of such personnel. The commission
254 is authorized to provide for denying a certificate to an applicant, suspending or revoking

255 a certificate, or otherwise disciplining the holder of a certificate for good cause after an
256 investigation is held and notice and an opportunity for a hearing are provided the certificate
257 holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The
258 commission shall designate and define the various classifications of professional personnel
259 employed in the public schools of this state that shall be required to be certificated under
260 this Code section or under Code Section 20-2-206. Without limiting the generality of the
261 foregoing, the term 'certificated professional personnel' means all professional personnel
262 certificated by the commission and county or regional librarians.

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

269 **SECTION 1-4.**

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

274 "20-2-739.

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

280 **SECTION 1-5.**

281 Said title is further amended in Part 10 of Article 17 of Chapter 2, relating to professional
282 standards in elementary and secondary education, by revising subsection (a) of Code
283 Section 20-2-984, relating to Professional Standards Commission — authority to create and
284 implement standards and procedures for certifying educational personnel, recommending
285 standards and procedures for certification, continuation of teaching certificates, and
286 restrictions, as follows:

287 "(a) The commission shall create and implement standards and procedures for certifying
288 educational personnel as qualified for a certificate to practice in the public schools of
289 Georgia; provided, however, that such standards and procedures shall not require an
290 individual to participate in or complete any training program in which divisive concepts,
291 as such term is defined in Code Section 20-1-11, are advocated for; provided, further, that
292 such standards shall include ~~including~~ the following:

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

302 **SECTION 1-6.**

303 Said title is further amended in Part 10 of Article 17 of Chapter 2, relating to professional
304 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;

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

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

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

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

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

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

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

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

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

382 (2) Any high school that participates in, sponsors, or provides coaching staff for
383 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.