

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 488

BY GIDDINGS

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-138, IDAHO CODE, TO PROVIDE FOR A  
PRIVATE CAUSE OF ACTION FOR CERTAIN VIOLATIONS; AND DECLARING AN EMER-  
GENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-138, Idaho Code, be, and the same is hereby  
amended to read as follows:

33-138. DIGNITY AND NONDISCRIMINATION IN PUBLIC EDUCATION. (1) It is  
the intent of the legislature that administrators, faculty members, other  
employees, and students at public schools, including public charter schools  
and institutions of higher education, respect the dignity of others, ac-  
knowledge the right of others to express differing opinions, and foster and  
defend intellectual honesty, freedom of inquiry and instruction, and free-  
dom of speech and association.

(2) The Idaho legislature finds that tenets outlined in subsection  
(3) (a) of this section, often found in "critical race theory," undermine the  
objectives outlined in subsection (1) of this section and exacerbate and  
inflame divisions on the basis of sex, race, ethnicity, religion, color, na-  
tional origin, or other criteria in ways contrary to the unity of the nation  
and the well-being of the state of Idaho and its citizens.

(3) In accordance with section 6, article IX of the constitution of the  
state of Idaho and section 67-5909, Idaho Code:

(a) No public institution of higher education, school district, or pub-  
lic school, including a public charter school, shall direct or other-  
wise compel students to personally affirm, adopt, or adhere to any of  
the following tenets:

(i) That any sex, race, ethnicity, religion, color, or national  
origin is inherently superior or inferior;

(ii) That individuals should be adversely treated on the basis of  
their sex, race, ethnicity, religion, color, or national origin;  
or

(iii) That individuals, by virtue of sex, race, ethnicity, reli-  
gion, color, or national origin, are inherently responsible for  
actions committed in the past by other members of the same sex,  
race, ethnicity, religion, color, or national origin.

(b) No distinction or classification of students shall be made on ac-  
count of race or color.

(c) No course of instruction or unit of study directing or otherwise  
compelling students to personally affirm, adopt, or adhere to any of the  
tenets identified in paragraph (a) of this subsection shall be used or  
introduced in any institution of higher education, any school district,  
or any public school, including a public charter school.

1 (4) Nothing in this section should be construed to prohibit the re-  
2 quired collection or reporting of demographic data by public schools or  
3 public institutions of higher education.

4 (5) Any taxpayer in this state shall have standing and a private cause  
5 of action to file a civil complaint in a district court of this state against  
6 any school subject to subsection (3) of this section claiming that such  
7 school or an employee of such school has violated any provision of subsection  
8 (3) of this section.

9 (a) If the court finds that a school district or public charter school,  
10 including an employee of either, has violated any provision of subsec-  
11 tion (3) of this section, then the court shall enjoin the school from  
12 receiving ten percent (10%) of any future payment under section 33-1009  
13 or 33-5208, Idaho Code, to the school district or public charter school,  
14 until such time as the school is in compliance with subsection (3) of  
15 this section, and shall award costs and attorney's fees to the com-  
16 plainant.

17 (b) If the court finds that a community college or public institution  
18 of higher education, including an employee of either, has violated any  
19 provision of subsection (3) of this section, then the court shall enjoin  
20 the school from receiving ten percent (10%) of funds appropriated for  
21 such college or institution in the fiscal year, until such time as the  
22 school is in compliance with subsection (3) of this section, and shall  
23 award costs and attorney's fees to the complainant.

24 SECTION 2. An emergency existing therefor, which emergency is hereby  
25 declared to exist, this act shall be in full force and effect on and after its  
26 passage and approval.