



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3764/1
JAM:wlj

2021 SENATE BILL 409

June 10, 2021 - Introduced by Senators JACQUE and NASS, cosponsored by Representatives GUNDRUM, ALLEN, BEHNKE, BRANDTJEN, CABRAL-GUEVARA, DITTRICH, HORLACHER, KNODL, KUGLITSCH, MAGNAFICI, MURPHY, RAMTHUN, ROZAR, SKOWRONSKI, SORTWELL, WICHGERS, THIESFELDT, ARMSTRONG and TUSLER. Referred to Committee on Universities and Technical Colleges.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to create** 36.42, 38.21 and 38.28 (2) (dm) of the statutes; **relating to:**
2 anti-racism and anti-sexism student instruction and anti-racism and
3 anti-sexism training for employees at the University of Wisconsin System and
4 the Technical College System.

Analysis by the Legislative Reference Bureau

This bill prohibits race and sex stereotyping in instruction provided to students in University of Wisconsin System institutions and Technical College System technical colleges and in training provided to employees of the University of Wisconsin System and technical colleges.

Under the bill, the institutions and technical colleges shall not allow instruction to students that promotes race or sex stereotyping in any course or as part of any curriculum and shall not require an employee to attend a training that teaches, advocates, acts upon, or promotes race or sex stereotyping. Among the concepts that are prohibited to be taught under the bill are the following: that one race or sex is inherently superior to another race or sex and that an individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex. The institutions and technical colleges must post all course syllabuses, including updates to the syllabuses, on their websites.

The bill provides that the Board of Regents of the UW System and the Technical College System Board shall withhold from a violating institution or technical college 10 percent of certain state aid that would have otherwise been allocated to that

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institution or technical college. The bill also allows a student or employee of an institution or technical college to issue a complaint to the Board of Regents or the Technical College System Board regarding an alleged violation of the bill, and to file a civil action seeking declaratory or injunctive relief regarding an alleged violation of the bill. If the student or employee is successful in the civil action, the court shall award the student or employee attorney fees.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.42 of the statutes is created to read:

2 **36.42 Race and sex stereotyping. (1) INSTRUCTION.** The board shall prohibit
3 institutions from allowing an instructor to teach race or sex stereotyping, including
4 any of the following concepts, to students in any course or as part of any curriculum:

5 (a) One race or sex is inherently superior to another race or sex.

6 (b) An individual, by virtue of the individual's race or sex, is inherently racist,
7 sexist, or oppressive, whether consciously or unconsciously.

8 (c) An individual should be discriminated against or receive adverse treatment
9 because of the individual's race or sex.

10 (d) Individuals of one race or sex are not able to and should not attempt to treat
11 others without respect to race or sex.

12 (e) An individual's moral character is necessarily determined by the
13 individual's race or sex.

14 (f) An individual, by virtue of the individual's race or sex, bears responsibility
15 for acts committed in the past by other individuals of the same race or sex.

16 (g) An individual should feel discomfort, guilt, anguish, or any other form of
17 psychological distress because of the individual's race or sex.

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1 (h) Systems based on meritocracy or traits such as a hard work ethic are racist
2 or sexist or are created by individuals of a particular race to oppress individuals of
3 another race.

4 **(1m)** SYLLABUSES POSTED. All course syllabuses, including any revisions to
5 course syllabuses, shall be posted on the institution's website.

6 **(2)** EMPLOYEE TRAINING. The board shall not require system employees to attend
7 training in which the board or a contractor hired by the board teaches, advocates,
8 acts upon, or promotes race or sex stereotyping, including any of the concepts
9 described in sub. (1) (a) to (h).

10 **(3)** VIOLATION. (a) In this subsection, "complainant" means a system employee
11 or a student enrolled at an institution.

12 (b) If the board determines that an institution has violated sub. (1), (1m), or (2),
13 the board shall notify the institution's chancellor of the violation.

14 (c) If, 20 business days after sending a notification under par. (b) to an
15 institution's chancellor, the board determines that the institution has not remedied
16 the violation that is the subject of the notification, the board shall withhold from the
17 violating institution in the next fiscal year 10 percent of the amount appropriated
18 under s. 20.285 (1) (a) that the board would have allocated to the institution.

19 (d) If the board by its authority under par. (c) has withheld state aid from an
20 institution, and the board determines that the institution is complying with subs. (1),
21 (1m), and (2), the board shall release the withheld funds to the institution.

22 (e) A complainant may file a complaint of an alleged violation of sub. (1) or (2)
23 with the board.

24 (f) Notwithstanding the immunity set forth under s. 893.80 (4), a complainant
25 may file a complaint for declaratory or injunctive relief against the board in a court

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1 of competent jurisdiction regarding a violation of sub. (1) or (2), and if successful in
2 such an action, the complainant may be awarded attorney fees, notwithstanding s.
3 814.04 (1).

4 **SECTION 2.** 38.21 of the statutes is created to read:

5 **38.21 Race and sex stereotyping. (1) INSTRUCTION.** District boards shall
6 not allow instructors to teach race or sex stereotyping, including any of the following
7 concepts, to students in any course or as part of any curriculum:

8 (a) One race or sex is inherently superior to another race or sex.

9 (b) An individual, by virtue of the individual's race or sex, is inherently racist,
10 sexist, or oppressive, whether consciously or unconsciously.

11 (c) An individual should be discriminated against or receive adverse treatment
12 because of the individual's race or sex.

13 (d) Individuals of one race or sex are not able to and should not attempt to treat
14 others without respect to race or sex.

15 (e) An individual's moral character is necessarily determined by the
16 individual's race or sex.

17 (f) An individual, by virtue of the individual's race or sex, bears responsibility
18 for acts committed in the past by other individuals of the same race or sex.

19 (g) An individual should feel discomfort, guilt, anguish, or any other form of
20 psychological distress because of the individual's race or sex.

21 (h) Systems based on meritocracy or traits such as a hard work ethic are racist
22 or sexist or are created by individuals of a particular race to oppress individuals of
23 another race.

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1 **(1m)** SYLLABUSES POSTED. All course syllabuses, including any revisions to
2 course syllabuses, shall be posted on the website of the technical college providing
3 the course.

4 **(2)** EMPLOYEE TRAINING. No district board shall require employees to attend
5 training in which the district board or a contractor hired by the district board
6 teaches, advocates, acts upon, or promotes race or sex stereotyping, including any of
7 the concepts described in sub. (1) (a) to (h).

8 **(3)** VIOLATION. (a) In this subsection, “complainant” means a district board
9 employee or a student enrolled in a technical college.

10 (b) If the board determines that a district board has violated sub. (1), (1m), or
11 (2), the board shall notify the district board of the violation.

12 (c) If, 20 business days after sending a notification under par. (b) to a district
13 board, the board determines that the district board has not remedied the violation
14 that is the subject of the notification, the board shall withhold from the violating
15 district board in the next fiscal year 10 percent of the amount appropriated under s.
16 20.292 (1) (d) that the board would have allocated to the district board.

17 (d) If the board by its authority under par. (c) has withheld state aid from a
18 district board, and the board determines that the district board is complying with
19 subs. (1), (1m), and (2), the board shall release the withheld funds to the district
20 board.

21 (e) A complainant may file a complaint of an alleged violation of sub. (1) or (2)
22 with the board.

23 (f) Notwithstanding the immunity set forth under s. 893.80 (4), a complainant
24 may file a complaint for declaratory or injunctive relief against a district board in a
25 court of competent jurisdiction regarding a violation of sub. (1) or (2), and if

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1 successful in such an action, the complainant may be awarded attorney fees,
2 notwithstanding s. 814.04 (1).

3 **SECTION 3.** 38.28 (2) (dm) of the statutes is created to read:

4 38.28 (2) (dm) Notwithstanding pars. (b), (be), (bm), and (d), the board shall
5 withhold and release payment of state aid to a district board as provided in s. 38.21
6 (3).

7 (END)