

House File 802 - Reprinted

HOUSE FILE 802
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 258)

(As Amended and Passed by the House March 16, 2021)

A BILL FOR

1 An Act providing for requirements related to racism or sexism
2 trainings at, and diversity and inclusion efforts by,
3 governmental agencies and entities, school districts, and
4 public postsecondary educational institutions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 25A.1 Race and sex stereotyping —
2 training prohibited by state and local governments.

3 1. For purposes of this section, unless the context
4 otherwise requires:

5 a. "Agency" or "state agency" means the same as defined in
6 section 8A.101.

7 b. "Divisive concepts" means the same as defined in section
8 261H.7, subsection 1.

9 c. "Governmental entity" means any unit of government in
10 the executive, legislative, or judicial branch of government;
11 an agency or political subdivision; any unit of another state
12 government, including its political subdivisions; or any
13 association or other organization whose membership consists
14 primarily of one or more of any of the foregoing.

15 d. "Governmental subdivision" means a county or city or
16 combination thereof.

17 e. "Race or sex scapegoating" means the same as defined in
18 section 261H.7, subsection 1.

19 f. "Race or sex stereotyping" means the same as defined in
20 section 261H.7, subsection 1.

21 2. Each agency, governmental entity, or governmental
22 subdivision may continue training that fosters a workplace
23 and learning environment that is respectful of all employees.
24 However, the head of an agency, governmental entity, or
25 governmental subdivision shall ensure that any mandatory staff
26 training provided by an employee of an agency, governmental
27 entity, or governmental subdivision, or by a contractor hired
28 by the agency, governmental entity, or governmental subdivision
29 does not teach, advocate, act upon, or promote divisive
30 concepts. This section shall not be construed as preventing
31 an employee or contractor who provides mandatory training from
32 responding to questions regarding divisive concepts raised by
33 participants in the training.

34 3. Each agency, governmental entity, or governmental
35 subdivision shall prohibit its employees from discriminating

1 against other employees by color, race, ethnicity, sex,
2 gender, or any other characteristic protected under the federal
3 Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and
4 applicable state law.

5 4. This section shall not be construed to do any of the
6 following:

7 a. Prevent an agency, governmental entity, or governmental
8 subdivision from promoting racial, cultural, ethnic, or
9 intellectual diversity or inclusiveness, provided such efforts
10 are consistent with the provisions of this section.

11 b. Create any right or benefit, substantive or procedural,
12 enforceable at law or in equity by any party against the state
13 of Iowa, its departments, agencies, or entities, its officers,
14 employees, or agents, or any other person.

15 c. Prohibit a state or federal court or agency of
16 competent jurisdiction from ordering a training or remedial
17 action containing discussions of divisive concepts as a
18 remedial action due to a finding of discrimination, including
19 discrimination based on race or sex.

20 Sec. 2. NEW SECTION. 261H.7 Race and sex stereotyping —
21 training by institution prohibited.

22 1. For purposes of this section, unless the context
23 otherwise requires:

24 a. "*Divisive concepts*" includes all of the following:

25 (1) That one race or sex is inherently superior to another
26 race or sex.

27 (2) That the United States of America and the state of Iowa
28 are fundamentally or systemically racist or sexist.

29 (3) That an individual, by virtue of the individual's race
30 or sex, is inherently racist, sexist, or oppressive, whether
31 consciously or unconsciously.

32 (4) That an individual should be discriminated against
33 or receive adverse treatment solely or partly because of the
34 individual's race or sex.

35 (5) That members of one race or sex cannot and should not

1 attempt to treat others without respect to race or sex.

2 (6) That an individual's moral character is necessarily
3 determined by the individual's race or sex.

4 (7) That an individual, by virtue of the individual's race
5 or sex, bears responsibility for actions committed in the past
6 by other members of the same race or sex.

7 (8) That any individual should feel discomfort, guilt,
8 anguish, or any other form of psychological distress on account
9 of that individual's race or sex.

10 (9) That meritocracy or traits such as a hard work ethic
11 are racist or sexist, or were created by a particular race to
12 oppress another race.

13 (10) Any other form of race or sex scapegoating or any other
14 form of race or sex stereotyping.

15 *b. "Race or sex scapegoating"* means assigning fault, blame,
16 or bias to a race or sex, or to members of a race or sex
17 because of their race or sex, or claiming that, consciously or
18 unconsciously, and by virtue of persons' race or sex, members
19 of any race are inherently racist or are inherently inclined to
20 oppress others, or that members of a sex are inherently sexist
21 or inclined to oppress others.

22 *c. "Race or sex stereotyping"* means ascribing character
23 traits, values, moral and ethical codes, privileges, status,
24 or beliefs to a race or sex, or to an individual because of the
25 individual's race or sex.

26 2. Each public institution of higher education may continue
27 training that fosters a workplace and learning environment that
28 is respectful of all employees and students. However, the
29 president, vice presidents, deans, department directors, or any
30 other administrator of a public institution of higher education
31 shall ensure that any mandatory staff or student training
32 provided by an employee of the institution or by a contractor
33 hired by the institution does not teach, advocate, act upon,
34 or promote divisive concepts. This subsection shall not be
35 construed as preventing an employee or contractor who provides

1 mandatory training from responding to questions regarding
2 divisive concepts raised by participants in the training.

3 3. Institution diversity and inclusion efforts shall
4 discourage students of a public institution of higher education
5 from discriminating against another by color, race, ethnicity,
6 sex, gender, political ideology, or any other characteristic
7 protected under the federal Civil Rights Act of 1964, Pub. L.
8 No. 88-352, as amended, and applicable state law. Each public
9 institution of higher education shall prohibit its employees
10 from discriminating against students or employees by color,
11 race, ethnicity, sex, gender, political ideology, or any other
12 characteristic protected under the federal Civil Rights Act of
13 1964, Pub. L. No. 88-352, as amended, and applicable state law.

14 4. This section shall not be construed to do any of the
15 following:

16 a. Inhibit or violate the first amendment rights of students
17 or faculty, or undermine a public institution of higher
18 education's duty to protect to the fullest degree intellectual
19 freedom and free expression. The intellectual vitality of
20 students and faculty shall not be infringed under this section.

21 b. Prevent a public institution of higher education
22 from promoting racial, cultural, ethnic, intellectual, or
23 academic diversity or inclusiveness, provided such efforts are
24 consistent with the provisions of this section, chapter 216,
25 and other applicable law.

26 c. Prohibit discussing divisive concepts as part of a larger
27 course of academic instruction.

28 d. Create any right or benefit, substantive or procedural,
29 enforceable at law or in equity by any party against the state
30 of Iowa, its departments, agencies, or entities, its officers,
31 employees, or agents, or any other person.

32 e. Prohibit a state or federal court or agency of
33 competent jurisdiction from ordering a training or remedial
34 action containing discussions of divisive concepts as a
35 remedial action due to a finding of discrimination, including

1 discrimination based on race or sex.

2 Sec. 3. NEW SECTION. 279.74 Race and sex stereotyping —
3 training and curriculum prohibited.

4 1. For purposes of this section, unless the context
5 otherwise requires:

6 a. "*Divisive concepts*" means the same as defined in section
7 261H.7.

8 b. "*Race or sex scapegoating*" means the same as defined in
9 section 261H.7.

10 c. "*Race or sex stereotyping*" means the same as defined in
11 section 261H.7.

12 2. Each school district may continue training that fosters
13 a workplace and learning environment that is respectful of
14 all employees and students. However, the superintendent of
15 each school district shall ensure that any curriculum or
16 mandatory staff or student training provided by an employee
17 of the school district or by a contractor hired by the school
18 district does not teach, advocate, act upon, or promote
19 divisive concepts. This subsection shall not be construed as
20 preventing an employee or contractor who teaches any curriculum
21 or who provides mandatory training from responding to questions
22 regarding divisive concepts raised by participants in the
23 training.

24 3. School district diversity and inclusion efforts shall
25 discourage students of the school district from discriminating
26 against another by color, race, ethnicity, sex, gender,
27 political ideology, or any other characteristic protected under
28 the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as
29 amended, and applicable state law. Each school district shall
30 prohibit its employees from discriminating against students or
31 employees by color, race, ethnicity, sex, gender, political
32 ideology, or any other characteristic protected under the
33 federal Civil Rights Act of 1964, Pub. L. No. 88-352, as
34 amended, and applicable state law.

35 4. This section shall not be construed to do any of the

1 following:

2 *a.* Inhibit or violate the first amendment rights of students
3 or faculty, or undermine a school district's duty to protect to
4 the fullest degree intellectual freedom and free expression.
5 The intellectual vitality of students and faculty shall not be
6 infringed under this section.

7 *b.* Prevent a school district from promoting racial,
8 cultural, ethnic, intellectual, or academic diversity or
9 inclusiveness, provided such efforts are consistent with the
10 provisions of this section, chapter 216, and other applicable
11 law.

12 *c.* Prohibit discussing divisive concepts as part of a larger
13 course of academic instruction.

14 *d.* Create any right or benefit, substantive or procedural,
15 enforceable at law or in equity by any party against the state
16 of Iowa, its departments, agencies, or entities, its officers,
17 employees, or agents, or any other person.

18 *e.* Prohibit a state or federal court or agency of
19 competent jurisdiction from ordering a training or remedial
20 action containing discussions of divisive concepts as a
21 remedial action due to a finding of discrimination, including
22 discrimination based on race or sex.

23 Sec. 4. Section 280.22, subsections 4 and 5, Code 2021, are
24 amended to read as follows:

25 4. Each board of directors of a public school shall adopt
26 rules in the form of a written publications code, which shall
27 include reasonable provisions for the time, place, and manner
28 of conducting such activities within its jurisdiction. The
29 code shall incorporate all of the provisions of this section.
30 The board shall make the code available to the students and
31 their parents.

32 5. Student editors of official school publications shall
33 assign and edit the news, editorial, and feature content of
34 their publications subject to the limitations of [this section](#).
35 Journalism advisers of students producing official school

1 publications shall supervise the production of the student
2 staff, in order to maintain professional standards of English
3 and journalism, and to comply with [this section](#).

4 Sec. 5. Section 280.22, Code 2021, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 6A. A public school employee or official,
7 acting within the scope of the person's professional ethics,
8 if any, shall not be dismissed, suspended, disciplined,
9 reassigned, transferred, subject to termination or nonrenewal
10 of a teaching contract issued under section 279.13 or an
11 extracurricular contract issued under section 279.19A, or
12 otherwise retaliated against for acting to protect a student
13 for engaging in conduct authorized under this section, or
14 refusing to infringe upon student conduct that is protected by
15 this section, the first amendment to the Constitution of the
16 United States, or Article I, section 7, of the Constitution of
17 the State of Iowa.

18 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
19 3, shall not apply to this Act.