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H.B. 322
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Jones

Holly Cantrell Gilman, Attorney

SUMMARY

- With respect to a course in history, civics, or a similar subject area, prohibits public schools and state agencies from (1) requiring the discussion of current events, (2) requiring or awarding course credit for lobbying or other work surrounding social or public policy advocacy, and (3) accepting private funding to develop curriculum, purchase course materials, or provide training.
- Prohibits a state agency or public school from teaching any administrator, teacher, staff, member, or employee to adopt or believe in any of the specified concepts.
- Prohibits the State Board of Education from adopting any model curriculum regarding specified concepts.
- Prohibits any teacher or school administrator or any employee of a public school or state agency from approving, making use of, or carrying out standards, curricula, lesson plans, textbooks, instructional materials, or instructional practices that serve to inculcate specified concepts.

DETAILED ANALYSIS

Prohibitions related to specified concepts

The bill establishes several prohibitions related to the teaching of certain concepts in public schools (school districts, community schools, STEM schools) and state agencies.

Prohibited concepts

The prohibited concepts are:

- One race or sex is inherently superior to another race or sex.
- An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

- An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race.
- Members of one race cannot and should not attempt to treat others without respect to race.
- An individual's moral standing or worth is necessarily determined by the individual's race or sex.
- An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.
- An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex.
- Meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular race or sex to oppress another race or sex.
- Fault, blame, or bias should be assigned to a race or sex or members of that race or sex because of their race or sex.
- The advent of slavery in the United States constituted the true founding of the United States.
- With respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to the authentic founding principles of the United States, which include liberty and equality.¹

Prohibitions

In history and related courses

With respect to a course in history, civics, or a similar subject area, the bill prohibits a state agency, public school, or school administration from doing any of the following:

1. Requiring the teacher to discuss current events or widely debated and currently controversial issues of public policy or social affairs;
2. Requiring, making a part of the course, or awarding course grading or credit for lobbying, work affiliation, or service in association with a lobbying organization, or any practicum, action project, or similar activity involving social or public policy advocacy; or
3. Accepting private funding to develop curriculum, purchase or select course materials, or provide training, professional development, or continuing education related to the course.²

¹ R.C. 3313.6028(A).

² R.C. 3313.6027, 3314.03(A)(11)(d), and 3326.11.

Staff adoption of beliefs

The bill prohibits a state agency or public school from teaching, instructing, or training any administrator, teacher, staff, member, or employee to adopt or believe in any of the prohibited concepts.³

Model curriculum

The bill prohibits the State Board of Education from adopting any model curriculum regarding the prohibited concepts.⁴

Sincerely held beliefs

The bill specifies that no teacher can be required by a policy of any state agency, public school, or school administration to affirm a belief in the systemic nature of racism, or like ideas, or in the multiplicity or fluidity of gender ideas, or like ideas, against the teacher's sincerely held religious or philosophical convictions.⁵

Teaching prohibited concepts

The bill further prohibits any teacher or school administrator employed by a public school or any employee of a state agency, without respect to course content, from approving, making use of, or carrying out standards, curricula, lesson plans, textbooks, instructional materials, or instructional practices that serve to inculcate the prohibited concepts. If a student does complete a course that includes these concepts, the bill provides that the course not count toward the requirements for high school graduation.⁶

HISTORY

Action	Date
Introduced	05-25-21

H0322-I-134/ts

³ R.C. 3313.6028(A), 3314.03(A)(11)(d), and 3326.11

⁴ R.C. 3301.079(B)(1), last paragraph.

⁵ R.C. 3313.6029.

⁶ R.C. 3313.6028(B) and (C), 3314.03(A)(11)(d), and 3326.11.



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H.B. 327
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Grendell and Fowler Arthur

Holly Cantrell Gilman, Attorney

SUMMARY

- Prohibits school districts, community schools, STEM schools, state agencies, and state institutions of higher education from teaching “divisive concepts” or accepting private funding to further promotion of “divisive concepts.”
- Requires the Department of Education to withhold funding from a school district or school that violates the bill’s provisions until such time as the district or school complies.
- Requires the administrative head of each state agency to review its grant and training programs as well as ensure and encourage compliance with the bill’s provisions by its employees.
- Requires the Department of Administrative Services to adopt a policy that complies with the bill’s provisions and establish rules for the implementation and enforcement of that policy.

DETAILED ANALYSIS

Prohibition on teaching specified topics

The bill prohibits public schools, state agencies, and state institutions of higher education from (1) offering teaching, instruction or training on “divisive concepts” and (2) accepting private funding to develop curriculum, purchase or select course materials, or provide training for a course promoting “divisive concepts.”¹ The bill places various responsibilities for its implementation on the Department of Administrative Services, heads of state agencies, the Superintendent of Public Instruction, and the State Board of Education.

¹ R.C. 3313.6027(B), 3314.03(A)(11)(d), 3326.11, and 4113.35(B).

For purposes of the bill's provisions a "divisive concept" is a concept that promotes or insinuates any of the following:

- One nationality, color, ethnicity, race, or sex is inherently superior to another nationality, color, ethnicity, race, or sex.
- The United States is fundamentally racist or sexist.
- An individual, by virtue of the individual's nationality, color, ethnicity, race, or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's nationality, color, ethnicity, race, or sex.
- Members of one nationality, color, ethnicity, race, or sex cannot and should not attempt to treat others without respect to nationality, color, ethnicity, race, or sex.
- An individual's moral character is necessarily determined by the individual's nationality, color, ethnicity, race, or sex.
- An individual, by virtue of the individual's nationality, color, ethnicity, race, or sex, bears responsibility for actions committed in the past by other members of the same nationality, color, ethnicity, race, or sex.
- Meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular nationality, color, ethnicity, race, or sex to oppress another nationality, color, ethnicity, race, or sex.
- Any other form of race or sex stereotyping or any other form of race or sex scapegoating.²

The does permit, however, all of the following: (1) teaching divisive concepts in an objective manner, without endorsement, (2) discussing the history of an ethnic group as described in textbooks and instructional materials, (3) the impartial discussion of controversial aspects of history, (4) the impartial discussion on historical oppression of a group based on nationality, color, ethnicity, race, sex, religion, or geographic region, and (5) permitted historical documents such as the national motto, national anthem, the Ohio Constitution, the U.S. Constitution, the Revised Code, federal law, and U.S. Supreme Court decisions.³

Superintendent of Public Instruction/State Board of Education duties

As noted above, the bill prohibits all public schools (school districts, community schools, and STEM schools) from teaching, instructing, or training any divisive concepts. It also prohibits requiring a student to advocate for or against a specific topic or point of view to receive credit

² R.C. 3313.6027(A)(1) and 4113.35(A)(1).

³ R.C. 3313.6027(D) and 4113.35(E).

for any coursework. Districts and schools must not accept private funding to develop curriculum, purchase or select course materials, or provide training for a course promoting divisive concepts.

If the Superintendent of Public Instruction finds that a school district or other public school knowingly violates the bill's provisions, the Department of Education must withhold state funding from the district or school in an amount determined by the Department until the district or school is in compliance.⁴ The State Board of Education may adopt rules regarding implementation of and compliance with the bill's public school provisions.⁵

Department of Administrative Services/heads of state agencies duties

The bill prohibits state agencies from (1) offering teaching, instruction, or training on divisive concepts to any employees, contractors, staff members, or any other individual group and (2) requiring the adoption or belief in divisive concepts. For purposes of the bill, a state agency includes every organized body, office, or agency that exercises any government function, including a state institution of higher education and state retirement and pension funds.⁶

Like the prohibitions placed on public schools, state agencies must not accept private funding to develop curriculum, purchase or select course materials, or provide training for a course promoting divisive concepts. However, state agencies, unlike public schools, are expressly prohibited from (1) taking adverse action on account of an employee's refusal to support or otherwise assent to divisive concepts or (2) requiring an employee to complete a curriculum including divisive concepts as a condition or prerequisite of employment.⁷

The bill requires the administrative head of each state agency to do all of the following:

1. Review the agency's respective grant programs and identify any that may require certification that a recipient will not use funds to promote divisive concepts;
2. Review employee training programs relating to diversity or inclusion to ensure compliance with the bill's provisions;
3. Ensure compliance with the bill's provisions by agencies, employees during work hours, and contractors;
4. Encourage agency employees not to judge each other based on their color, race, ethnicity, sex, or any other characteristic protected by federal or state law;

⁴ R.C. 3313.6027(C).

⁵ R.C. 3313.6027(E).

⁶ R.C. 4113.35(A)(2).

⁷ R.C. 4113.35(B)(2) and (3).

5. If a contracted entity promotes divisive concepts and violates a public contract, evaluate whether to pursue debarment of contractor;
6. Issue to all agency employees the policy developed by the Department of Administrative Services (see below), annually review and assess the agency's compliance with that policy, and submit a report to the Department of Administrative Services regarding the agency's compliance; and
7. Make at least one employee within the agency responsible for ensuring compliance with the policy.⁸

The bill requires the Department of Administrative Services to develop a policy that (1) complies with the bill's provisions, (2) incorporates the requirements of diversity and inclusion efforts, and (3) encourages state employees not to judge each other by their color, race, ethnicity, sex, or any other protected characteristic. The Department of Administrative Services must establish rules for the implementation and enforcement of the policy.⁹

HISTORY

Action	Date
Introduced	05-25-21

H0327-I-134/ks

⁸ R.C. 4113.35(C)(2).

⁹ R.C. 4113.35(D).



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Substitute Bill Comparative Synopsis

Sub. H.B. 327

134th General Assembly

House State and Local Government

Holly Cantrell Gilman, Attorney

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
Protected characteristics and title	
<p>Addresses discrimination and other unfair treatment on the basis of: (1) nationality, (2) color, (3) ethnicity, (4) race, and (5) sex.</p> <p>No provision.</p>	<p>Addresses discrimination and other unfair treatment on the basis of: (1) nationality, (2) race, (3) color, (4) ethnicity, (5) <u>religion</u>, or (6) sex (hereinafter “race, religion, etc.”).</p> <p>Names the bill “The Promoting Education Not Indoctrination Act” (<i>Section 3</i>).</p>
Application – entities subject to bill	
<p>School districts, community schools, and STEM schools (<i>R.C. 3313.6027(B)(1), 3314.03, and 3326.11</i>).</p> <p>Specifies that “state agency” includes a state institution of higher education and places responsibilities for a state institution’s compliance on the Department of Administrative Services (<i>R.C. 4113.35(A)(2) and (A)(3)</i>).</p>	<p>Same, but adds a school building operated by a school district, community school, or STEM school (<i>R.C. 3313.6027(B)(1), 3314.03, and 3326.11</i>).</p> <p>Removes state institution of higher education from the definition of state agency and instead places responsibilities for monitoring compliance by state institutions of higher education on the Department of Higher Education (<i>R.C. 4113.35(A)(2) and 3345.0215</i>).</p>

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
No provision.	Adds political subdivisions to the list of entities to which the bill applies (<i>R.C. 4113.35(A)(3)</i>).
No provision.	Adds any nonpublic school that enrolls students who are participating in a state scholarship program to the list of entities to which the bill applies (<i>R.C. 3313.6027(B)(1)</i>).
Divisive concepts – that must be prohibited by agencies, schools, and state institutions of higher education	
Members of one nationality, color, ethnicity, race, or sex cannot and should not attempt to treat others without respect to nationality, color, ethnicity, race, or sex (<i>R.C. 3313.6027(A)(1)(e)</i>).	Members of one nationality, race, color, ethnicity, religion, or sex attempt to treat others disrespectfully based upon nationality, race, color, ethnicity, religion, or sex (<i>R.C. 3313.6027(A)(1)(e)</i>).
Concepts that are not divisive	
Discussing the history of an ethnic group as described in textbooks and instructional materials adopted in accordance with continuing law (<i>R.C. 3313.6027(D)(1) and 4113.35(E)(1)</i>).	Same, but also prohibits a school district board of education from selecting any textbook, instructional material, or academic curriculum that promotes any divisive concepts (<i>R.C. 3313.6027(F)(1) and 3313.21(D)</i>).
No provision.	In a course on public speaking, formal debate, or substantially similar subject matter in a public school or a state institution of higher education, the assignment of research or other work, the assignment of a grade or score, unbiased and impartial questions posed by a teacher, respectful student to student debate, and student research and questions, all provided the teacher remains neutral and does not engage in promotion of divisive concepts (<i>R.C. 3313.6027(F)(2) and 3345.0215(F)(2)</i>).
Prohibitions	
Prohibits teaching, instructing, or training any divisive concepts in public schools (<i>R.C. 3313.6027(B)(1)</i>).	Same, except also prohibits the promotion of professional development (which mirrors the provisions of the As Introduced version for state agencies) and includes a separate set of identical provisions for state institutions of higher education (<i>R.C. 3313.6027(B)(1), 3345.0215, and 4113.35(B)(1)</i>).

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
Prohibits requiring a student to advocate for or against a specific topic or point of view to receive credit for any coursework (<i>R.C. 3313.6027(B)(1)</i>).	Same, and specifies that the provision applies to all subject areas and includes a prohibition against receipt of graduation credit (<i>R.C. 3313.6027(B)(1) and (D)(1)</i>).
Prohibits accepting private funding to develop curriculum, purchase or select course materials, or provide training for a course promoting divisive concepts (<i>R.C. 3313.6027(B)(2) and 4113.35(B)(3)</i>).	Same, but adds selecting a curriculum to the list of prohibited activities in the case of schools (<i>R.C. 3313.6027(B)(2), 3345.0215(B)(2), and 4113.35(B)(3)</i>).
No provision.	Prohibits applying for any federal grants to develop or select a curriculum, purchasing course materials, or provide teacher training for a course promoting divisive concepts (<i>R.C. 3313.6027(B)(2), 3345.0215(B)(2), and 4113.35(B)(3)</i>).
No provision.	Specifies that “no moneys shall be expended in support of teaching divisive concepts” (<i>R.C. 3313.6027(B)(2), 3345.0215(B)(2), and 4113.35(B)(3)</i>).
No provision.	Prohibits a school or state institution of higher education from (1) penalizing or discriminating against a teacher, administrator, or other school employee on account of the teacher’s, administrator’s, or other school employee’s refusal to support, believe, or otherwise assent to divisive concepts or (2) requiring the same to complete a curriculum including divisive concepts as a condition or prerequisite of employment. (<i>R.C. 3313.6027(B)(3) and 3345.0215(B)(3)</i>).
No provision.	Prohibits a state institution of higher education from including as part of new student or freshman orientation teaching, instruction, or training on divisive concepts (<i>R.C. 3345.0215(B)(4)</i>).
Responsibilities – Chancellor of Higher Education	
No provision.	If the Chancellor determines through a confirmed report that a state institution of higher education violates the bill’s provisions, the Department of Higher Education must withhold state share of instruction funds until such time as the institution complies in the following amounts: (1) for a first

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
No provision.	offense 25%, (2) for a second offense 50%, and (3) for a third offense 100% (<i>R.C. 3345.0215(C)(1)</i>). Develop a policy that complies with the bill's provisions and to the extent appropriate, make it substantially similar to the policy developed by the Department of Administrative Services (<i>R.C. 3345.0215(E)(1)</i>).
No provision.	Establish rules for the implementation and enforcement of the policy (<i>R.C. 3345.0215(E)(2)</i>).
No provision.	Prepare a biennial report that provides detailed information on any confirmed report of a violation and submit it to the General Assembly by November 30 of each even-numbered year, beginning in 2022 (<i>R.C. 3345.0215(E)(3)</i>).
Responsibilities—Board of Trustees of each state institution of higher education	
No provision.	Update policy on faculty tenure to reflect the bill's principles and consider as a negative factor in employment and tenure decisions any confirmed reports that a faculty member or other employee knowingly or recklessly violates the bill's provisions (<i>R.C. 3345.0215(C)(2)</i>).
No provision.	Review grant programs and identify any that may require certification that a recipient will not use funds to promote divisive concepts (<i>R.C. 3345.0215(D)(1)</i>).
No provision.	Review employee training programs relating to diversity or inclusion to ensure compliance with the bill's provisions (<i>R.C. 3345.0215(D)(2)</i>).
No provision.	Ensure compliance with the bill's provisions by political subdivision and employees during work hours, and contractors (<i>R.C. 3345.0215(D)(3)</i>).
No provision.	Encourage employees not to judge each other based on their color, race, ethnicity, sex, or any other characteristic protected by federal or state law (<i>R.C. 3345.0215(D)(4)</i>).

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
No provision.	If a contracted entity promotes divisive concepts and violates a public contract, evaluate whether to pursue debarment of contractor <i>(R.C. 4113.35(D)(2))</i> .
No provision.	Issue to all employees the policy developed by the Chancellor, annually review and assess compliance, and submit a report to the Department of Higher Education regarding that compliance <i>(R.C. 4113.35(D)(4))</i> .
Responsibilities – Superintendent of Public Instruction	
In the event that a district or school knowingly violates the bill’s provisions, withhold state funding from the district or school until the Department of Education determines the district or school is compliant <i>(R.C. 3313.6027(C))</i> .	Similar, but: (1) requires a confirmed report from a student, parent, teacher, or community member, (2) reduces standard from knowing to reckless, (3) reduces funding by 25% for a first offense, 50% for a second offense, and 100% for a third offense, and (4) makes the state Superintendent also responsible for determining when a district or school is compliant <i>(R.C. 3313.6027(C)(1))</i> .
Responsibilities – State Board of Education	
No provision.	In the event the State Board determines through a confirmed report that a teacher, principal, or school district superintendent knowingly or recklessly violates the bill’s provisions: (1) for a first offense issue an official licensure admonishment, (2) for a second offense suspend licensure for a period of time determined by the State Board based on severity and circumstances, or (3) for a third offense, revoke licensure for a period of time determined by the State Board based on severity and circumstances <i>(R.C. 3313.6027(C)(2))</i> .
Permits the State Board to adopt rules regarding implementation of and monitoring compliance with the bill’s provisions <i>(R.C. 3313.6027(E))</i> .	Makes mandatory the adoption of rules <i>(R.C. 3313.6027(E)(1))</i> .

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
No provision.	Prohibits the State Board to adopt any model curriculum, standards, professional development resources, etc., regarding concepts that are divisive (<i>R.C. 3313.6027(E)(2)</i>).
No provision.	Requires the State Board to prepare an annual report with detailed information on confirmed reports and a copy of each complaint filed and (2) Submit the report to the General Assembly by June 30 of each year, beginning in 2022 (<i>R.C. 3313.6027(E)(3)</i>).
Responsibilities—the legislative authority of each political subdivision	
No provision.	Review grant programs and identify any that may require certification that a recipient will not use funds to promote divisive concepts (<i>R.C. 4113.35(D)(1)</i>).
No provision.	Review employee training programs relating to diversity or inclusion to ensure compliance with the bill’s provisions (<i>R.C. 4113.35(D)(2)</i>).
No provision.	Ensure compliance with the bill’s provisions by political subdivision and employees during work hours, and contractors (<i>R.C. 4113.35(D)(3)</i>).
No provision.	Encourage employees not to judge each other based on their color, race, ethnicity, sex, or any other characteristic protected by federal or state law (<i>R.C. 4113.35(D)(4)</i>).
No provision.	If a contracted entity promotes divisive concepts and violates a public contract, evaluate whether to pursue debarment of contractor (<i>R.C. 4113.35(D)(2)</i>).
No provision.	Issue to all employees the policy developed by the Department of Administrative Services, annually review and assess compliance, and submit a report to the Department of Administrative Services regarding that compliance (<i>R.C. 4113.35(D)(4)</i>).

H.B. 327 (As Introduced)	Sub. H.B. 327 (I_134_1448-4)
Responsibilities—Department of Administrative Services	
No specific provision.	Include political subdivision employees in its policy <i>(R.C. 4113.35(E)(1))</i> .
No provision.	Prepare a biennial report regarding compliance by state and political subdivision employees and submit it to the General Assembly by November 30 of each even-numbered year, beginning in 2022 <i>(R.C. 4113.35(E)(3))</i> .
Private cause of action against public schools	
No provision	Permits the parent, guardian, or custodian of any student who, by way of a violation of this section, is subjected to indoctrination of divisive concepts in order to receive a class grade or graduation credit to bring a civil action against the school, district, or school employee responsible for the violation <i>(R.C. 3313.6027(D)(2) and (3))</i> .

Tuesday, June 15, 2021

Article 7

House Begins Review Of Bills Addressing Racism Education

Lawmakers on Tuesday detailed plans to place restrictions on how topics related to race and other subjects are taught in the state as House Democrats questioned the need for the bills.

The **House State & Local Government** heard sponsor testimony on two measures addressing the subject – one (**HB 322**) largely focused on K-12 education and another (**HB 327**) with provisions also addressing local governments, state agencies and institutions of higher education.

Sponsor **Rep. Don Jones** (R-Freeport) said HB322 would bar schools from teaching that any race is superior to another or that any person is inherently racist.

The measure would also prohibit instruction implying the importation of slaves into the American colonies marked the true founding of America – a reference to the *New York Times Magazine's* award-winning 1619 Project, a multifaceted examination of chattel slavery's role in the American story.

The reporting project has become a hobbyhorse among right-leaning media outlets and think tanks nationwide taking aim at what they deem "critical race theory."

Rep. Jones said the goal of his legislation is to prevent what he called "indoctrination."

"The goal of that indoctrination is to alter how our children view the United States," he said. "The goal is to train children to believe the United States is fundamentally racist, and by association our children are somehow inherently racist."

Rep. Jones said the measure would not prevent teachers from educating students about slavery or the mistreatment of Black Americans post-emancipation.

"Just because the bill prohibits inculcating that the United States and its citizens are inherently racist does not mean the unfortunate parts of our history cannot be taught," he said. "Nowhere in this bill does it say the atrocities of racism, slavery, and their effects on our nation and nation's laws cannot or should not be taught. In fact, they need to be taught."

Before discussion on the bill began, **Rep. Brigid Kelly** (D-Cincinnati) asked why the legislation is not being considered by the **House Primary & Secondary Education** Committee and motioned for re-referral, which failed in a party-line vote.

Rep. Jamie Callender (R-Concord) said nothing prevents that panel from hearing the bill later.

Chair **Rep. Scott Wiggam** (R-Wooster) added that is "an option," although he would not commit to that course of action.

Rep. Kelly asked if any specific incidents inspired the introduction of the bill.

Rep. Jones said a constituent called him to report one television news channel was favored over others in a high school class. He said he has also heard from teachers who fear they may at some point be required to teach certain information they do not believe.

Rep. Kelly questioned whether such concerns would be better handled at the local level and compared the measure to "trying to swat a fly with a sledgehammer."

Rep. Jones said a statewide policy is needed to ensure that students are not taught theories or ideologies as fact.

Rep. Tavia Galonski (D-Akron) asked if parents can help expose their children to alternative viewpoints they do not learn about in the classroom.

Rep. Jones said parents should play a role, but students should learn about both sides of controversial issues in the classroom.

"The classroom is to educate, not to advocate or lobby," he said.

Rep. Galonski also repeatedly said she does not believe teachers in the state are engaging in the type of behavior that would be barred by the bill. She said the legislation is based on the flawed premise that "our teachers aren't doing a good job."

Rep. Callender asked if the measure could be amended to exempt honors classes from provisions barring teaching of certain arguments or concepts.

"Sometimes the better option might be rather than to avoid talking about those concepts, to bring in two sides of a concept," he said.

Rep. Jones said the goal of the bill is to present "both sides" of issues. He said he would be open to an amendment that would give schools more leeway on what is taught in honors and senior-level courses.

Asked by **Rep. Michael Skindell** (D-Lakewood) if he was open to language ensuring the measure would be applied to charter schools, Rep. Jones said he is amenable to any changes to make the bill "stronger."

Committee members also reviewed the more expansive proposal from **Rep. Sarah Fowler Arthur** (R-Rock Creek) and **Rep. Diane Grendell** (R-Chesterland) that similarly would prevent instruction in what it labels "divisive concepts" – including that the U.S. is inherently racist or that individuals bear responsibility for the past actions of members of their sex or race.

Discussion followed the party-line adoption of a **substitute version** that Rep. Fowler Arthur said clarifies "divisive concepts" involves not just race but all protected classes addressed in the Civil Rights Act of 1964 and specifies that teachers and administrators are shielded from consequences if they decline to attend "an indoctrination class." (**Comp Doc**)

Rep. Fowler Arthur said discussions of "divisive concepts" would be allowed under the legislation as long as no particular ideology is being promoted.

Rep. Galonski said the bill lacks a definition of *promotion*. She said that could lead to problems because different people could define the term in various ways.

Rep. Adam Holmes (R-Nashport), who read sponsor testimony on behalf of Rep. Grendell, said the legislation is an attempt to prevent any groups from being defined as "either victims or victimizers."

"Our legislation seeks to correct a growing, concerning, educational curriculum that has found its way in our state's schools and workplace training," he said. "This curriculum does not challenge students to think critically, or inspire them to embrace their individualism in our society. Rather, it attempts to imbue them with the notion that they are either oppressed or the oppressor."

Rep. Fowler Arthur said the measure is needed to prevent schools from teaching students they bear blame for events that happened before they were born.

"The promotion of concepts that hold our seven-, eight-, and nine-year-old children responsible for the crimes of past generations goes against everything our nation stands for," she said. "It is an unconscionable perversion that any child should be held personally responsible for the sins of their father, or a group of individuals in the past."

Rep. Kelly said she views the concept of "divisive concepts" as "pretty subjective." She questioned whether it came from model legislation.

Rep. Fowler Arthur said she could not address that directly because the language in question was included in the bill when she joined Rep. Grendell as a sponsor.

Rep. Lisa Sobecki (D-Toledo) said she wonders why a state policy is needed when local governments and school boards already can address individual problems similar to those describe by the bills' sponsors.

"We tend to pick and choose when we want to have local control," she said.

The bills were blasted ahead of their first hearings by the state's largest teachers union, the Ohio Education Association.

OEA President Scott DiMauro said members are "disturbed, disappointed, and disheartened by recent efforts to white-out American history by hiding the truth from Ohio's children."

"For our children to thrive and become critical thinkers, we must trust Ohio's dedicated educators to have age-appropriate conversations about the tough subjects, as they do every day in their classrooms now. No matter where they come from or what they look like, our kids need a well-rounded, intellectually stimulating school curriculum that celebrates all of Ohio's history, including the countless contributions made – and challenges faced – by people of color in our state."

Rep. Phillip Robinson (D-Solon), ranking member of the lower chamber's Primary and Secondary Education Committee, said in a statement the proposal could lead to educators teaching less-accurate versions of history.

"Usurping our locally elected school boards and forcing teachers to deny reality doesn't help our kids learn and grow," he said. "Our children deserve to know the real history of our state. It's fundamental to ensuring the next generation has the tools it needs to thrive and build a better future for them and their children."

Wednesday, June 23, 2021

Article 8

Proponents Push Case For Bills Addressing Racism Education

Conservative advocacy groups and parents opposed to the teaching of what they deem "critical race theory" urged lawmakers to move forward with two proposals restricting how topics related to race can be taught in Ohio schools.

About three dozen witnesses offered in-person or written testimony Wednesday to the **House State & Local Government** Committee on measures (**HB 322 & HB 327**) that would bar schools from teaching that any race is superior to another or that any person is inherently racist, among other prohibitions.

Proponents called for state action to prevent schools from teaching critical race theory – an academic concept examining the role of racism in the American legal system that has become a popular topic of conversation in conservative media in recent months.

David Randall, director of research at the National Association of Scholars, said in written testimony the organization "believes that instruction in Critical Race Theory and 'action civics' is harmful at any educational level."

"Critical Race Theory and 'action civics' together educate students to be community organizers committed to the belief that the main purpose of education is to liberate America from 'systemic oppression,' he said. "The NAS believes that this improperly politicizes our education system."

Stanley Kurtz, senior fellow at the Ethics and Public Policy Center, said children should not be taught they are guilty of oppression based on the color of their skin or their gender.

"We do not want them taught that they bear the onus of hatred, whether they are conscious of it or not," he said. "Nor do we want them taught that citizens should receive special status or entitlement simply by virtue of identity-group membership."

John Michael LaRue, pastor of First Baptist Church Miamisburg, said critical race theory "originally held that the law and legal institutions are inherently and systemically racist."

"CRT has further been expanded to infer that all social institutions are inherently and systemically racist and operate to promote the interests of the racially defined oppressor class against the racially defined oppressed

class," he said.

Rep. Brigid Kelly (D-Cincinnati) repeatedly asked witnesses whether they have examples of "critical race theory" being taught in Ohio schools.

Mr. LaRue said he could not give specific examples but said efforts to redefine racism and oppression are "prevalent" in the state, adding that it can be difficult to obtain curriculum.

Ex-State Board of Education member Lisa Woods said in written testimony the bills are needed in the wake of the BOE's decision to pass a resolution mandating implicit bias training for Department of Education employees and requiring a review of K-12 standards, model curricula and mandated student assessments for bias. (See **Gongwer Ohio Report, July 15, 2020**)

"Five members of the board stood against this resolution and the resolution set off a fire storm of controversy that continues to this day, necessitating the need for thoughtful and reasoned legislation to put a stop to the barrage of mistruths, disproven theories and outright mistruths to be thrust upon our Ohio school children," she said in prepared testimony.

Current BOE member Jenny Kilgore said critical race theory makes assumptions about individuals based on skin color.

Rep. Sarah Fowler Arthur (R-Rock Creek), one of the primary sponsors of HB327, asked if discussions on race at the higher education level "trickle down" into primary and secondary education.

Ms. Kilgore, who has a background in teacher training, said many young educators are being taught through that lens.

"These young people are being grounded in critical race theory," she said.

Several residents from across the state submitted in-person or written testimony backing the bills as needed to combat critical race theory.

Hamilton County resident Dan Salcido called the measure "a necessary remedy to a growing, misguided and repressive educational curriculum that is finding its way into our state's schools."

"This CRT-influenced curriculum does not challenge our students to think critically, but rather discriminatorily," he said. "CRT attempts to imbue them with the notions that they are either the oppressed or the oppressor and have a predisposition, consciously or unconsciously, to be a racist and sexist. –simply by the color of their God-given skin or gender."

Deb Giehl of Loveland said children do not separate people based on race unless they are taught to do so.

"CRT indoctrinates all children to look at everything through a 'race first lens,' she said. "White children are asked to examine their "whiteness" and 'check their privilege.' It is an anti-American doctrine that has no place in any Ohio school."

Raymond Gaier of Maineville said some proponents of CRT are anticapitalist.

"This is especially troubling as the United States has as its foundation capitalism," he said. "We have gone to multiple wars to protect our Constitution and our form of government."

Jacob Cain, a recent graduate of Rocky River schools, said he was told by a diversity instructor in school that "only white people can be racist."

"I remember it, not just because of the confusion it caused amongst my classmates, but because of how backwards and misleading this idea is," he said.

Asked by **Rep. Marilyn John** (R-Shelby) how often students in the district received diversity training, Mr. Cain said he took it freshman year, although the school system may be expanding to lower grades.

GUEST ESSAY

We Disagree on a Lot of Things. Except the Danger of Anti-Critical Race Theory Laws.

July 5, 2021

By Kmele Foster, David French, Jason Stanley and Thomas Chatterton Williams

The authors are a cross-partisan group of thinkers who have written extensively about authoritarianism, liberalism and free speech.

What is the purpose of a liberal education? This is the question at the heart of a bitter debate that has been roiling the nation for months.

Schools, particularly at the kindergarten-to-12th-grade level, are responsible for helping turn students into well-informed and discerning citizens. At their best, our nation's schools equip young minds to grapple with complexity and navigate our differences. At their worst, they resemble indoctrination factories.

In recent weeks, Tennessee, Oklahoma, Iowa, Idaho and Texas have passed legislation that places significant restrictions on what can be taught in public school classrooms and, in some cases, public universities, too.

Tennessee House Bill SB 0623, for example, bans any teaching that could lead an individual to “feel discomfort, guilt, anguish or another form of psychological distress solely because of the individual's race or sex.” In addition to this vague proscription, it restricts teaching that leads to “division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class or class of people.”

Texas House Bill 3979 goes further, forbidding teaching that “slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States.” It also bars any classroom from requiring “an understanding of the 1619 Project” — The New York Times Magazine's special issue devoted to a reframing of the nation's founding — and hence prohibits assigning any part of it as required reading.

These initiatives have been marketed as “anti-critical race theory” laws. We, the authors of this essay, have wide ideological divergences on the explicit targets of this legislation. Some of us are deeply influenced by the academic discipline of critical race theory and its critique of racist structures and admire the 1619 Project. Some of us are skeptical of structural racist explanations and racial identity itself and disagree with the mission and methodology of the 1619 Project. We span the ideological spectrum: a progressive, a moderate, a libertarian and a conservative.

It is *because* of these differences that we here join, as we are united in one overarching concern: the danger posed by these laws to liberal education.

The laws differ in some respects but generally agree on blocking any teaching that would lead students to feel discomfort, guilt or anguish because of one's race or ancestry, as well as restricting teaching that subsequent generations have any kind of historical responsibility for actions of previous generations. They attempt various carve outs for the impartial teaching of the history of oppression of groups. But it's hard to see how these attempts are at all consistent with demands to avoid discomfort. These measures would, by way of comparison, make Germany's uncompromising and successful approach to teaching about the Holocaust illegal, as part of its goal is to infuse them with some sense of the weight of the past and (famously) lead many German students to feel anguish about their ancestry.

Indeed, the very act of learning history in a free and multiethnic society is inescapably fraught. Any accurate teaching of any country's history could make *some* of its citizens feel uncomfortable (or even guilty) about the past. To deny this necessary consequence of education is, to quote W.E.B. Du Bois, to transform “history into propaganda.”

What's more, these laws even make it difficult to teach U.S. history in a way that would reveal well-documented ways in which past policy decisions, like redlining, have contributed to present-day racial wealth gaps. An education of this sort would be negligent, creating ignorant citizens who are unable to understand, for instance, the case for reparations — or the case against them.

Because these laws often aim to protect the feelings of hypothetical children, they are dangerously imprecise. State governments exercise a high degree of lawful control over K-12 curriculum. But broad, vague laws violate due process and fundamental fairness because they don't give the teachers fair warning of what's prohibited. For example, the Tennessee statute prohibits a public school from including in a course of instruction any “concept” that promotes “division between, or resentment of” a “creed.” Would teachers be violating the law if they express the opinion that the creeds of Stalinism or Nazism were evil?

Other laws appear to potentially ban even expression as benign as support for affirmative action, but it's far from clear. In fact, shortly after Texas passed its purported ban on critical race theory, the Texas Public Policy Foundation, a conservative think tank, published a list of words and concepts that help "identify critical race theory in the classroom." The list included terms such as "social justice," "colonialism" and "identity." Applying the same standards to colleges or private institutions would be flatly unconstitutional.

These laws threaten the basic purpose of a historical education in a liberal democracy. But censorship is the wrong approach even to the concepts that are the intended targets of these laws.

Though some of us share the antipathy of the legislation's authors toward some of these targets and object to overreaches that leave many parents understandably anxious about the stewardship of their children's education, we all reject the means by which these measures encode that antipathy into legislation.

A wiser response to problematic elements of what is being labeled critical race theory would be twofold: propose better curriculums and enforce existing civil rights laws. Title VI and Title VII of the Civil Rights Act prohibit discrimination on the basis of race, and they are rooted in a considerable body of case law that provides administrators with far more concrete guidance on how to proceed. In fact, there is already an Education Department Office of Civil Rights complaint and a federal lawsuit aimed at programs that allegedly attempt to place students or teachers into racial affinity groups.

The task of defending the fundamentally liberal democratic nature of the American project ultimately requires the confidence to meet challenges to that vision. Censoring such challenges is a concession to their power, not a defense.

Let's not mince words about these laws. They are speech codes. They seek to change public education by banning the expression of ideas. Even if this censorship is legal in the narrow context of public primary and secondary education, it is antithetical to educating students in the culture of American free expression.

There will always be disagreement about any nation's history. The United States is no exception. If history is to judge the United States as exceptional, it is because we welcome such contestation in our public spaces as part of our unfolding national ethos. It is a violation of this commonly shared vision of America as a nation of free, vigorous and open debate to resort to the apparatus of the government to shut it down.

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