

By: Senator(s) Hill

To: Education;
Appropriations

SENATE BILL NO. 2078

1 AN ACT TO PROVIDE THAT CERTAIN PROHIBITED CONCEPTS SHALL NOT
 2 BE INCLUDED OR PROMOTED IN A COURSE OF INSTRUCTION OR CURRICULUM
 3 IN PUBLIC SCHOOLS AND CHARTER SCHOOLS; TO PROVIDE CERTAIN
 4 EXCEPTIONS TO THIS PROHIBITION; TO PROVIDE THE REQUIREMENTS FOR
 5 SCHOOLS TO COMPLY AND COLLECT DATA RELATED TO THE ACT; TO PROVIDE
 6 FOR THE PROCEDURE FOR CERTAIN INDIVIDUALS TO FILE COMPLAINTS FOR
 7 VIOLATIONS OF THE ACT; TO ALLOW EARLY RESOLUTIONS OF COMPLAINTS;
 8 TO SET THE APPEALS PROCEDURE FOR INDIVIDUALS TO APPEAL SCHOOL'S
 9 DETERMINATIONS TO THE APPEALS REVIEW TEAM; TO PROVIDE THAT THE
 10 ATTORNEY GENERAL SHALL ENSURE THE DEPARTMENT OF EDUCATION
 11 WITHHOLDS CERTAIN FUNDS FROM SCHOOLS WHEN THERE ARE KNOWING
 12 VIOLATIONS OF THIS ACT; AND FOR RELATED PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 **SECTION 1. Definitions.** For purposes of this chapter,
 15 unless the context requires otherwise, the following terms shall
 16 have the meanings ascribed herein:

17 (a) "Course of instruction" means a unit of academic
 18 instruction which includes a series of lessons or meetings
 19 designed to meet specific educational goals.

20 (b) "State Superintendent" means the Mississippi State
 21 Superintendent of Education.

22 (c) "Curriculum and instructional program" means a set
 23 of core instructional materials including activities and textbooks



24 designed to help students reach the learning outcomes established
25 in state academic standards.

26 (d) "Department" means the Mississippi Department of
27 Education.

28 (e) "Appeals Review Team" means a committee of six
29 members appointed equally by the Attorney General and the State
30 Superintendent to review and investigate, as necessary, appeals
31 filed with the Department pursuant to this act. Each employee
32 shall have knowledge and expertise regarding curriculum,
33 instructional standards and school and LEA operations and
34 administration.

35 (f) "Impartial" means free from favor or bias toward
36 one (1) viewpoint over another.

37 (g) "Oppressive" means cruel and unfair.

38 (h) "Parent" means the parent or legal guardian of the
39 student.

40 (i) "Privileged" means having a special advantage or
41 right.

42 (j) "Prohibited concepts" are those concepts
43 specifically enumerated in Section 2 of this act that shall not be
44 included or promoted in a course of instruction, curriculum,
45 instructional program, or through a supplemental instructional
46 material.

47 (k) "School" means a public school or charter school in
48 the state.



49 (1) "State funds" means any funds appropriated to
50 schools from any source by the State of Mississippi.

51 (m) "Supplemental instructional materials" means
52 materials used in conjunction with the core instructional
53 materials of a course. Supplemental instructional materials
54 extend and support instruction and include, but are not limited
55 to, books, periodicals, visual aids, video, sound recordings,
56 computer software or other digital content.

57 **SECTION 2. Prohibited concepts.** (1) The following concepts
58 are prohibited concepts that shall not be included or promoted in
59 a course of instruction, curriculum, instructional program or in
60 supplemental instructional materials:

61 (a) One (1) race or sex is inherently superior to
62 another race or sex;

63 (b) An individual, by virtue of the individual's race
64 or sex, is inherently privileged, racist, sexist or oppressive,
65 whether consciously or subconsciously;

66 (c) An individual should be discriminated against or
67 receive adverse treatment because of the individual's race or sex;

68 (d) An individual's moral character is determined by
69 the individual's race or sex;

70 (e) An individual, by virtue of the individual's race
71 or sex, bears responsibility for actions committed in the past by
72 other members of the same race or sex;



73 (f) An individual should feel discomfort, guilt,
74 anguish or another form of psychological distress solely because
75 of the individual's race or sex;

76 (g) A meritocracy is inherently racist or sexist, or
77 designed by a particular race or sex to oppress members of another
78 race or sex;

79 (h) This state or the United States is fundamentally or
80 irredeemably racist or sexist;

81 (i) Promoting or advocating the violent overthrow of
82 the United States government;

83 (j) Promoting division between, or resentment of, a
84 race, sex, religion, creed, nonviolent political affiliation,
85 social class or class of people;

86 (k) Ascribing character traits, values, moral or
87 ethical codes, privileges or beliefs to a race or sex, or to an
88 individual because of the individual's race or sex;

89 (l) The rule of law does not exist, but instead is a
90 series of power relationships and struggles among racial or other
91 groups;

92 (m) All Americans are not created equal and are not
93 endowed by their Creator with certain unalienable rights,
94 including, life, liberty and the pursuit of happiness; or

95 (n) Governments should deny to any person within the
96 government's jurisdiction the equal protection of the law.



97 (2) Notwithstanding subsection (1) of this section, schools
98 are not prohibited from including or promoting concepts as part of
99 a course of instruction, in a curriculum or instructional program,
100 or through the use of supplemental instructional materials if
101 those concepts involve:

102 (a) The history of an ethnic group;

103 (b) The impartial discussion of controversial aspects
104 of history;

105 (c) The impartial instruction on the historical
106 oppression of a particular group of people based on race,
107 ethnicity, class, nationality, religion or geographic region; or

108 (d) Historical documents relevant to paragraphs (a),
109 (b), and (c) of this subsection.

110 **SECTION 3. School requirements.** Each LEA or public charter
111 school shall:

112 (a) Ensure compliance with this act by investigating
113 suspected violations and complaints alleging violations this act;

114 (b) Post the complaint form provided by the Department
115 for filing a complaint alleging violations of this act on the
116 school's website;

117 (c) Prohibit retaliation for filing a complaint or
118 participating in an investigation;

119 (d) Obtain written consent from a parent prior to the
120 participation of a minor student in the investigative process,
121 including consent to be interviewed;



122 (e) Provide instructions on how to file an appeal of
123 the school's determination with the Department in any written
124 determination to an eligible complainant;

125 (f) Provide annual notice of this act to staff,
126 students and parents;

127 (g) Maintain for five (5) years and make available for
128 inspection by the Department, records of:

129 (i) The number of complaints filed;

130 (ii) The number of complaints closed;

131 (iii) The number of complaints pending;

132 (iv) The number of complaints substantiated; and

133 (v) The number of complaints not substantiated.

134 **SECTION 4. Reporting and investigating prohibited concepts.**

135 (1) Schools are best positioned to choose which textbook and
136 instructional materials meet the needs of their students,
137 educators and community. Schools are required to utilize local
138 textbook and instructional materials adoption committees to review
139 textbooks proposed for district-wide adoption by the school
140 district from the list of textbooks and instructional materials
141 approved by the State Board of Education. Local review committees
142 must be set up by grade and subject matter fields and composed of
143 teachers, or supervisors and teachers, and parents with children
144 enrolled in the school at the time of appointment to a committee.
145 The local board of education may also appoint experts in the grade
146 level or subject matter field for which textbooks and



147 instructional materials are to be reviewed. General complaints
148 about the subject matter or age appropriateness of textbooks and
149 instructional materials that do not allege that prohibited
150 concepts are being or have been included or promoted in a course
151 of instruction, curriculum, instructional program, or in
152 supplemental instructional materials of a school, must be filed
153 with the school board or public charter school pursuant to the
154 school board or charter school's locally adopted policy for
155 addressing such complaints.

156 (2) To file a complaint alleging that prohibited concepts
157 are being or have been included or promoted in a course of
158 instruction, curriculum, instructional program, or in supplemental
159 instructional materials of a school, a complainant must file a
160 complaint with the school in which the allegation(s) arose on the
161 complaint form provided by the Department.

162 (3) To file a complaint, the complainant must be a current
163 student of the school in which the allegation(s) arose, a parent
164 of a current student of the school in which the allegation(s)
165 arose or a current employee of the school in which the
166 allegation(s) arose.

167 (4) The complaint must be filed within thirty (30) calendar
168 days of the prohibited concept being included or promoted in a
169 course of instruction, curriculum, instructional program or
170 supplemental instructional materials.



171 (5) The following information, in addition to any other
172 information requested by the school, must be included in the
173 complaint on the form provided by the Department:

174 (a) The name and contact information of the
175 complainant;

176 (b) A brief description of the prohibited concept at
177 issue;

178 (c) A brief statement on why the concept at issue is a
179 prohibited concept;

180 (d) The name of the individual alleged to have included
181 or promoted the prohibited concept;

182 (e) The name of any individuals who may have knowledge
183 of the allegations;

184 (f) A list of any documentation or materials supporting
185 the complainant's allegations, including copies of such
186 documentation or materials where possible; and

187 (g) The approximate date on which the prohibited
188 concept was included or promoted.

189 (6) Upon receipt of a complaint, the school shall determine
190 whether it has the authority to investigate the complaint. The
191 school shall have the authority to investigate the complaint if:

192 (a) The complaint alleges that a prohibited concept was
193 included in a course of instruction, curriculum, instructional
194 program or supplemental instructional materials;



195 (b) The complaint is filed by a current student of the
196 school in which the allegation(s) arose, a parent of a current
197 student of the school in which the allegation(s) arose or a
198 current employee of the charter school in which the allegation(s)
199 arose; and

200 (c) The complaint is filed within thirty (30) calendar
201 days of the prohibited concept being included or promoted in a
202 course of instruction, curriculum, instructional program or
203 supplemental instructional materials, or within thirty (30)
204 calendar days of these rules becoming effective.

205 (7) Within fifteen (15) calendar days of receiving the
206 complaint, the school shall send a letter to the complainant
207 explaining whether it has authority to investigate the complaint
208 and will be initiating an investigation. An investigation is
209 "initiated" when the school sends a written notification to the
210 complainant that the allegation(s) shall be investigated.

211 (8) Within thirty (30) calendar days of receiving the
212 complaint, the school shall determine whether the allegation(s) in
213 the complaint is substantiated. The 30-day timeline may only be
214 extended upon approval by the Department if exceptional
215 circumstances exist with respect to a particular complaint and
216 those circumstances are appropriately documented. If there is a
217 need for an extension to the 30-day timeline, the complainant
218 shall be notified of this extension in writing. The allegation(s)
219 in the complaint shall be "substantiated" if:



220 (a) The school determines that the concept at issue is
221 a prohibited concept; and

222 (b) The school determines that the individual
223 affirmatively and intentionally included or promoted the concept
224 in a course of instruction, curriculum, instructional program or
225 supplemental instructional materials.

226 (9) The school shall issue a written determination stating
227 whether the allegation(s) in the complaint is substantiated. The
228 written determination shall be communicated to the complainant and
229 the individual alleged to have included or promoted the prohibited
230 concept. Such determination letters shall be subject to all
231 applicable federal, state, and local student privacy laws and
232 policies, including the Family Educational Rights and Privacy Act
233 (20 U.S.C. Section 1232g; 34 C.F.R. Part 99).

234 (10) If an alleged violation is substantiated, the school
235 shall take appropriate remedial action to ensure that the
236 prohibited concept(s) is no longer included in a course of
237 instruction, curriculum, instructional program, or supplemental
238 instructional materials. In order to afford the complainant or
239 the individual alleged to have included or promoted a prohibited
240 concept an opportunity to appeal the decision, remedial action
241 shall not be taken until fifteen (15) calendar days have passed
242 after the date the school issues the written determination. Such
243 remedial action may include:



244 (a) Amendment of the course of instruction, curriculum,
245 instructional program, or supplemental instructional materials to
246 address any purported violations of this act; or

247 (b) Disciplinary or licensure action against a teacher
248 for violation of this act.

249 (11) The school shall maintain an investigative file
250 containing the complaint, the initiating letter, any interview
251 notes, any electronic or physical evidence obtained, any other
252 notes maintained by the investigator and a copy of the written
253 determination issued in the matter.

254 **SECTION 5. Early resolution of complaints.** (1) Schools are
255 encouraged to work collaboratively with parents, teachers and
256 other employees to resolve concerns and complaints as quickly as
257 possible. At any point after a complaint has been filed, but
258 before a final written determination has been issued by the
259 school, the complainant, or the individual alleged to have
260 included or promoted the prohibited concept may propose early
261 resolution of the allegations through a resolution agreement.

262 (2) If a proposed resolution agreement is verbally approved
263 by the school, the complainant and the individual alleged to have
264 included or promoted the prohibited concept, the school shall
265 prepare a written resolution agreement to be submitted to the
266 complainant and the individual alleged to have included or
267 promoted the prohibited concept summarizing the allegations in the
268 complaint and any agreed upon terms of the early resolution.



269 Entry into an early resolution agreement shall not constitute an
270 admission that the school knowingly violated this act.

271 (3) Once a written resolution agreement is signed and sent
272 to the complainant and the individual alleged to have included or
273 promoted the prohibited concept, the complaint shall be deemed
274 resolved and the school shall not be required to complete its
275 investigation or issue a final written determination.

276 (4) If a complainant believes that the school has failed to
277 enforce a written resolution agreement, then entry into an early
278 resolution agreement does not prohibit a complainant from later
279 filing a new complaint based on the same facts and allegations as
280 the original complaint, provided the complainant files the new
281 complaint within thirty (30) days of receiving the written
282 resolution agreement from the school and the complaint is
283 otherwise filed in accordance with this act. If the school
284 enforces a written resolution for the first thirty (30) days, and
285 thereafter fails to enforce a written resolution, the complainant
286 may also file a new complaint.

287 (5) The 30-day timeline for a school to complete an
288 investigation and determine whether the allegation(s) in the
289 complaint are substantiated shall not be extended for the purpose
290 of discussing or finalizing a resolution agreement.

291 **SECTION 6. Appeals to the Appeals Review Team.** (1) The
292 complainant or the individual alleged to have included or promoted
293 the prohibited concept may file an appeal of the school's



294 determination with the Appeals Review Team within fifteen (15)
295 calendar days of the date that the school issues a written
296 determination.

297 (2) Upon receipt of an appeal, the Appeals Review Team shall
298 initiate an investigation within fifteen (15) calendar days of
299 receiving the complaint.

300 (3) As part of the investigation, the Appeals Review Team
301 shall have the authority to:

302 (a) Request the investigative file from the school;

303 (b) Interview the complainant, the individual alleged
304 to have included or promoted the prohibited concept or any other
305 individual deemed necessary by the Department; and

306 (c) Request any new or additional relevant physical or
307 electronic evidence from the school or any witness.

308 (4) No later than thirty (30) calendar days of receiving
309 the appeal, the Appeals Review Team shall prepare an investigative
310 report summarizing its findings upon the close of its

311 investigation. The report shall include a recommendation as to:

312 (a) Whether the allegation(s) in the original complaint
313 is substantiated; and

314 (b) Whether the school knowingly violated this act.

315 (5) If the Appeals Review Team determines that the school
316 knowingly violated this act, the Attorney General shall ensure the
317 Department withholds the payment of state funds scheduled to be
318 distributed to the school until the requirements of the corrective



319 action plan have been met. The amount of state funds to be
320 withheld shall be as follows:

321 (a) For the first determination of a knowing violation
322 during the school year, the Department shall withhold two percent
323 (2%) of annual state funds scheduled to be granted to the school
324 or One Million Dollars (\$1,000,000.00), whichever is less; or

325 (b) For the second or more determination of a knowing
326 violation during the school year, the Department shall withhold
327 four percent (4%) of annual state funds scheduled to be granted to
328 the school or Two Million Dollars (\$2,000,000.00), whichever is
329 less.

330 **SECTION 7.** This act shall take effect and be in force from
331 and after July 1, 2024.

