

House Engrossed

racial discrimination; public education

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE CONCURRENT RESOLUTION 2001

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, SECTION 36, CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, SECTION 7, CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 12; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Short title

4 This act may be cited as the "Stop Critical Race Theory
5 and Racial Discrimination in Schools and Other Public
6 Institutions Act".

7 2. Purpose

8 The people of this state find and declare the following:

9 1. Slavery, legal racial discrimination and racism are
10 so inconsistent with the founding principles of the United
11 States that Americans fought a civil war to eliminate the
12 first, waged long-standing political campaigns to eradicate
13 the second and have made the third unacceptable in the court
14 of public opinion.

15 2. Racially discriminatory ideologies and practices
16 such as that known as "critical race theory" directly
17 contradict the principles of the Fourteenth Amendment of the
18 United States Constitution, the Civil Rights Act of 1964 and
19 the Constitution of Arizona by inflaming divisions on the
20 basis of race and ethnicity.

21 3. By advocating for differential treatment of
22 individuals on the basis of race and ethnicity, promoting the
23 assumption that reverse racism is necessary or advancing the
24 idea that an individual should be first and foremost reduced
25 to one's demographic identity, the aforementioned ideologies
26 and practices deny the constitutional guarantee of equal
27 protection of the law and the promise of the Declaration of
28 Independence holding that all men are created equal.

29 4. The ordinary meaning of terms such as "anti-racist"
30 and "diversity, equity and inclusion" have been supplanted and
31 distorted by proponents of an ideology that actively groups,
32 segregates, discriminates or otherwise advocates for
33 differential treatment among individuals based on racial and
34 ethnic characteristics.

35 5. It is unacceptable for state-run, taxpayer-supported
36 institutions to teach or implement racially discriminatory
37 ideologies or practices or to require students or employees to
38 endorse racial discrimination or participate in activities
39 promoting it.

40 3. Article II, section 36, Constitution of Arizona, is proposed to
41 be amended as follows if approved by the voters and on proclamation of the
42 Governor:

43 36. Preferential treatment or discrimination
44 prohibited; exceptions; definitions

45 Section 36. A. This state shall not grant preferential
46 treatment to or discriminate against any individual or group

1 on the basis of race, sex, color, ethnicity or national origin
2 in the operation of public employment, public education or
3 public contracting.

4 B. This section does not:

5 1. Prohibit bona fide qualifications based on sex that
6 are reasonably necessary to the normal operation of public
7 employment, public education or public contracting.

8 2. Prohibit action that must be taken to establish or
9 maintain eligibility for any federal program, if ineligibility
10 would result in a loss of federal monies to this state,

11 ~~---~~ SUBJECT TO THE FOLLOWING:

12 (a) ANY ACTION THAT WOULD OTHERWISE BE PROHIBITED,
13 INCLUDING IMPLEMENTING AN AFFIRMATIVE ACTION POLICY, AND THAT
14 IS TAKEN IN ACCORDANCE WITH FEDERAL REQUIREMENTS PURSUANT TO
15 THIS PARAGRAPH SHALL BE LIMITED TO OUTREACH, ADVERTISING OR
16 COMMUNICATION EFFORTS.

17 (b) THIS STATE MAY NOT UNDER ANY CIRCUMSTANCE
18 DISADVANTAGE OR TREAT DIFFERENTLY ON THE BASIS OF RACE OR
19 ETHNICITY ANY INDIVIDUAL FROM AMONG ANY POOL OF APPLICANTS,
20 STUDENTS, EMPLOYEES OR CONTRACT RECIPIENTS WHEN MAKING A
21 HIRING, CONTRACTING, PROMOTION OR ADMISSION DECISION.

22 (c) A PUBLIC EDUCATIONAL INSTITUTION MAY NOT IMPLEMENT
23 ANY DISCIPLINARY POLICY OR DISCIPLINARY ACTION THAT TREATS AN
24 INDIVIDUAL STUDENT OR GROUP OF STUDENTS DIFFERENTLY ON ACCOUNT
25 OF RACE OR ETHNICITY.

26 (d) ACCESS TO SERVICES, FACILITIES OR GROUNDS OF ANY
27 PUBLIC EDUCATIONAL INSTITUTION IN THIS STATE MAY NOT BE
28 CONDITIONED ON THE RACE OR ETHNICITY OF ANY INDIVIDUAL OR
29 GROUP OF INDIVIDUALS.

30 (e) TO UPHOLD THE CONSTITUTION OF THE UNITED STATES AS
31 THE SUPREME LAW OF THE LAND, THIS STATE DEEMS ANY REQUIREMENT
32 THAT THIS STATE PRACTICE RACIAL DISCRIMINATION OTHER THAN AS
33 PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH TO BE
34 INCONSISTENT WITH THE FOURTEENTH AMENDMENT OF THE CONSTITUTION
35 OF THE UNITED STATES AND SUBJECT TO THE PROHIBITIONS
36 ESTABLISHED UNDER SECTION 3, SUBSECTION C OF THIS ARTICLE.

37 3. Invalidate any court order or consent decree that is
38 in force as of the effective date of this section.

39 C. The remedies available for a violation of this
40 section are the same, regardless of the injured party's race,
41 sex, color, ethnicity or national origin, as are otherwise
42 available for a violation of the existing antidiscrimination
43 laws of this state.

1 D. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY
2 WILFUL VIOLATION OF THIS SECTION.

3 ~~D.~~ E. This section OR ANY AMENDMENT TO THIS SECTION
4 applies only to actions that are taken after the effective
5 date of this section OR THE RESPECTIVE AMENDMENT TO THIS
6 SECTION.

7 ~~E.~~ F. This section is self-executing.

8 ~~F.~~ G. For the purposes of this section: ~~—~~

9 1. "PUBLIC EDUCATIONAL INSTITUTION" INCLUDES ALL OF THE
10 FOLLOWING:

- 11 (a) A SCHOOL DISTRICT.
- 12 (b) A SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT.
- 13 (c) A CHARTER SCHOOL.
- 14 (d) THE DEPARTMENT OF EDUCATION.
- 15 (e) THE STATE BOARD OF EDUCATION.
- 16 (f) THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
17 BLIND.
- 18 (g) THE STATE BOARD FOR CHARTER SCHOOLS.
- 19 (h) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA
20 BOARD OF REGENTS.

21 (i) A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED
22 PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A
23 POLITICAL SUBDIVISION OF THIS STATE.

24 (j) ANY COMMUNITY COLLEGE WITHIN A COMMUNITY COLLEGE
25 DISTRICT DESCRIBED IN SUBDIVISION (i) OF THIS PARAGRAPH.

26 2. "State" includes this state, a city, town or county,
27 a public university, including the university of Arizona,
28 Arizona state university and northern Arizona university, a
29 community college district, a school district, a special
30 district or any other political subdivision in this state.

31 4. Article XI, section 7, Constitution of Arizona, is proposed to
32 be amended as follows if approved by the voters and on proclamation of the
33 Governor:

34 7. Sectarian instruction; religious or political test
35 or qualification; definitions

36 Section 7. A. ~~No~~ Sectarian instruction shall NOT be
37 imparted in any school or state educational institution that
38 may be established under this Constitution, and ~~no~~ A religious
39 or political test or qualification shall ~~ever~~ NOT be required
40 as a condition of admission into, OR PROMOTION WITHIN, any
41 public educational institution of the state, as teacher,
42 EMPLOYEE, student, ~~or~~ or pupil; but the liberty of conscience
43 hereby secured shall not be so construed as to justify
44 practices or conduct inconsistent with the good order, peace,
45 morality, ~~or~~ or safety of the state, or with the rights of
46 others.

1 B. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY
2 WILFUL VIOLATION OF THIS SECTION.

3 C. FOR THE PURPOSES OF THIS SECTION:

4 1. "POLITICAL TEST":

5 (a) INCLUDES:

6 (i) COMPELLING OR SOLICITING AN APPLICANT, TEACHER,
7 EMPLOYEE, STUDENT OR PUPIL TO IDENTIFY A COMMITMENT TO OR MAKE
8 A STATEMENT OF PERSONAL BELIEF IN SUPPORT OF ANY IDEOLOGY OR
9 MOVEMENT THAT PROMOTES THE DIFFERENTIAL TREATMENT OF ANY
10 INDIVIDUAL OR GROUP OF INDIVIDUALS BASED ON RACE OR ETHNICITY,
11 INCLUDING ANY INITIATIVE OR FORMULATION OF DIVERSITY, EQUITY
12 AND INCLUSION BEYOND UPHOLDING THE EQUAL PROTECTION OF THE
13 LAWS GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED
14 STATES CONSTITUTION OR ANY THEORY OR PRACTICE THAT HOLDS THAT
15 SYSTEMS OR INSTITUTIONS UPHOLDING THE EQUAL PROTECTION OF THE
16 LAWS GUARANTEED BY THE FOURTEENTH AMENDMENT OF THE UNITED
17 STATES CONSTITUTION ARE RACIST, OPPRESSIVE OR OTHERWISE
18 UNJUST.

19 (ii) GIVING PREFERABLE CONSIDERATION TO AN APPLICANT,
20 TEACHER, EMPLOYEE, STUDENT OR PUPIL FOR OPINIONS EXPRESSED OR
21 ACTIONS TAKEN IN SUPPORT OF ANOTHER INDIVIDUAL OR GROUP OF
22 INDIVIDUALS, IN WHICH THE INSTITUTION'S CONSIDERATION IS BASED
23 ON THE RACE OR ETHNICITY OF THOSE OTHER INDIVIDUALS.

24 (b) DOES NOT INCLUDE FIDELITY TO, OR AN OATH OR EFFORT
25 TAKEN TO UPHOLD, THIS CONSTITUTION OR THE CONSTITUTION OF THE
26 UNITED STATES.

27 2. "PUBLIC EDUCATIONAL INSTITUTION" INCLUDES ALL OF THE
28 FOLLOWING:

29 (a) A SCHOOL DISTRICT.

30 (b) A SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT.

31 (c) A CHARTER SCHOOL.

32 (d) THE DEPARTMENT OF EDUCATION.

33 (e) THE STATE BOARD OF EDUCATION.

34 (f) THE ARIZONA STATE SCHOOLS FOR THE DEAF AND THE
35 BLIND.

36 (g) THE STATE BOARD FOR CHARTER SCHOOLS.

37 (h) A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA
38 BOARD OF REGENTS.

39 (i) A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED
40 PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A
41 POLITICAL SUBDIVISION OF THIS STATE.

42 (j) ANY COMMUNITY COLLEGE WITHIN A COMMUNITY COLLEGE
43 DISTRICT DESCRIBED IN SUBDIVISION (i) OF THIS PARAGRAPH.

1 5. Article XI, Constitution of Arizona, is proposed to be amended
2 by adding section 12 as follows if approved by the voters and on
3 proclamation of the Governor:

4 12. Prohibition on state-sponsored racial
5 discrimination in public education; definitions

6 SECTION 12. A. AN EMPLOYEE OR GOVERNING BOARD OR
7 GOVERNING BODY MEMBER OF A PUBLIC INSTITUTION OF ELEMENTARY OR
8 SECONDARY EDUCATION, PUBLIC UNIVERSITY OR COMMUNITY COLLEGE IN
9 THIS STATE MAY NOT COMPEL OR REQUIRE ANY EMPLOYEE OR STUDENT
10 TO ADOPT, AFFIRM, ENDORSE, ADHERE TO OR PROFESS AN IDEA
11 CONTRARY TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
12 (P.L. 88-352; 78 STAT. 241) AND ARTICLE II, SECTION 36 OF THIS
13 CONSTITUTION, OR COMPEL ANY EMPLOYEE OR STUDENT TO PARTICIPATE
14 IN A TRAINING OR ORIENTATION PROMOTING SUCH IDEAS, INCLUDING,
15 BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

16 1. THAT ONE RACE OR ETHNIC GROUP IS INHERENTLY MORALLY
17 OR INTELLECTUALLY SUPERIOR TO ANOTHER RACE OR ETHNIC GROUP.

18 2. THAT AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S
19 RACE OR ETHNICITY, IS INHERENTLY RACIST OR OPPRESSIVE, WHETHER
20 CONSCIOUSLY OR UNCONSCIOUSLY.

21 3. THAT AN INDIVIDUAL SHOULD BE INVIDIOUSLY
22 DISCRIMINATED AGAINST, OR RECEIVE ADVERSE TREATMENT SOLELY OR
23 PARTLY BECAUSE OF, THE INDIVIDUAL'S RACE OR ETHNICITY.

24 4. THAT AN INDIVIDUAL'S MORAL CHARACTER IS DETERMINED
25 BY THE INDIVIDUAL'S RACE OR ETHNICITY.

26 5. THAT AN INDIVIDUAL, BY VIRTUE OF THE INDIVIDUAL'S
27 RACE OR ETHNICITY, IS SUBJECT TO BLAME OR JUDGMENT OR BEARS
28 RESPONSIBILITY FOR ACTIONS COMMITTED BY OTHER MEMBERS OF THE
29 SAME RACE OR ETHNIC GROUP.

30 6. THAT AN INDIVIDUAL SHOULD FEEL DISCOMFORT, GUILT,
31 ANGUISH OR ANY OTHER FORM OF PSYCHOLOGICAL DISTRESS BECAUSE OF
32 THE INDIVIDUAL'S RACE OR ETHNICITY.

33 7. THAT ACADEMIC ACHIEVEMENT, MERITOCRACY OR TRAITS
34 SUCH AS A HARD WORK ETHIC, RATIONAL THINKING, OBJECTIVITY OR
35 LITERACY ARE FEATURES OF RACISM OR OPPRESSION.

36 B. AN EMPLOYEE OF A PUBLIC INSTITUTION OF ELEMENTARY OR
37 SECONDARY EDUCATION WHO IS ACTING IN THE COURSE OF THE
38 EMPLOYEE'S OFFICIAL DUTIES MAY NOT USE THE EMPLOYEE'S POSITION
39 OF AUTHORITY OVER STUDENTS OR OTHER EMPLOYEES TO PROMOTE OR
40 ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION,
41 INCLUDING BY USING PUBLIC RESOURCES OR FACILITIES TO
42 ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS
43 SECTION. THIS SUBSECTION DOES NOT PREVENT A TEACHER FROM
44 IDENTIFYING AND DISCUSSING HISTORICAL MOVEMENTS, IDEOLOGIES OR
45 INSTANCES OF RACIAL HATRED OR DISCRIMINATION, INCLUDING, BUT

1 NOT LIMITED TO, SLAVERY, INDIAN REMOVAL, THE HOLOCAUST OR
2 JAPANESE-AMERICAN INTERNMENT.

3 C. UNLESS INCLUDED AS PART OF A FOR-CREDIT
4 POSTSECONDARY COURSE TAUGHT BY A UNIVERSITY OR COMMUNITY
5 COLLEGE FACULTY MEMBER, AN EMPLOYEE OF A PUBLIC UNIVERSITY OR
6 COMMUNITY COLLEGE WHO IS ACTING IN THE COURSE OF THE
7 EMPLOYEE'S OFFICIAL DUTIES MAY NOT USE THE EMPLOYEE'S POSITION
8 OF AUTHORITY OVER STUDENTS OR OTHER EMPLOYEES TO PROMOTE OR
9 ENDORSE THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION,
10 INCLUDING BY USING PUBLIC RESOURCES OR FACILITIES TO ENDORSE
11 THE TENETS DESCRIBED IN SUBSECTION A OF THIS SECTION.

12 D. AN ATTORNEY ACTING ON BEHALF OF A PUBLIC INSTITUTION
13 OF ELEMENTARY OR SECONDARY EDUCATION, A PUBLIC UNIVERSITY OR A
14 COMMUNITY COLLEGE MAY REQUEST A LEGAL OPINION OF THE ATTORNEY
15 GENERAL OR THE COUNTY ATTORNEY FOR THE COUNTY IN WHICH THE
16 PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY EDUCATION,
17 PUBLIC UNIVERSITY OR COMMUNITY COLLEGE IS LOCATED AS TO
18 WHETHER A PROPOSED USE OF STATE RESOURCES WOULD VIOLATE THIS
19 SECTION.

20 E. THE LEGISLATURE SHALL PRESCRIBE A PENALTY FOR ANY
21 WILFUL VIOLATION OF THIS SECTION.

22 F. FOR THE PURPOSES OF THIS SECTION:

23 1. "COMMUNITY COLLEGE" MEANS ANY COMMUNITY COLLEGE
24 WITHIN A COMMUNITY COLLEGE DISTRICT THAT IS ESTABLISHED
25 PURSUANT TO THE ARIZONA REVISED STATUTES AND THAT IS A
26 POLITICAL SUBDIVISION OF THIS STATE.

27 2. "PUBLIC INSTITUTION OF ELEMENTARY OR SECONDARY
28 EDUCATION" MEANS A SCHOOL DISTRICT, A CHARTER SCHOOL, THE
29 DEPARTMENT OF EDUCATION, THE STATE BOARD OF EDUCATION, THE
30 ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND AND THE STATE
31 BOARD FOR CHARTER SCHOOLS.

32 3. "PUBLIC UNIVERSITY" MEANS A UNIVERSITY UNDER THE
33 JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

34 6. Severability

35 If a provision of this act or its application to any
36 person or circumstance is held invalid, the invalidity does
37 not affect other provisions or applications of the act that
38 can be given effect without the invalid provision or
39 application, and to this end the provisions of this act are
40 severable.

41 7. The Secretary of State shall submit this proposition to the
42 voters at the next general election as provided by article XXI,
43 Constitution of Arizona.