

REFERENCE TITLE: racial discrimination; public education

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

## **HCR 2001**

Introduced by  
Representatives Kaiser: Bolick, Dunn, Nguyen, Payne, Pingerelli, Wilmeth,  
Senator Gowan

### **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.