

2022 South Dakota Legislature

House Bill 1012**AMENDMENT 1012G FOR THE SENATE EDUCATION
ENGROSSED BILL**

1 **An Act to protect certain students and employees ~~at institutions of higher education~~**
2 **from-divisive concepts.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 13-1 be amended with a NEW SECTION:**

5 For the purposes of ~~sections 2 to 8, inclusive, of~~ this Act, the term, divisive
6 concepts, means:

7 (1) That ~~any-an individual's~~ race, color, religion, sex, ethnicity, or national origin is
8 inherently superior or inferior;

9 (2) That individuals should be discriminated against or adversely treated because of
10 their race, color, religion, sex, ethnicity, or national origin;

11 (3) That an individual's moral character is inherently determined by their race, color,
12 religion, sex, ethnicity, or national origin;

13 (4) That an individual, by virtue of their race, color, religion, sex, ethnicity, or national
14 origin is inherently racist, sexist, or oppressive, whether consciously or
15 subconsciously;

16 (5) That individuals, by virtue of race, color, religion, sex, ethnicity, or national origin,
17 are inherently responsible for actions committed in the past by other members of
18 the same race, color, religion, sex, ethnicity, or national origin;

19 (6) An individual should feel discomfort, guilt, anguish, or any other form of
20 psychological distress on account of the individual's race, color, religion, ~~sex,~~
21 ethnicity, or national origin; or

22 (7) Meritocracy or traits such as a strong work ethic are racist or sexist or were created
23 by members of a particular race or sex to oppress members of another race or sex.

24 **Section 2. That chapter 13-1 be amended with a NEW SECTION:**

1 The Board of Regents, or the Board of Technical Education, or any institution under
2 their control, may not direct or compel a student to personally affirm, adopt, or adhere to
3 divisive concepts.

4 The Board of Regents, or the Board of Technical Education, or any institution under
5 their control may not require their students or employees to attend or participate in any
6 training or orientation that teaches, advocates, acts upon, or promotes divisive concepts.

7 **Section 3. That chapter 13-1 be amended with a NEW SECTION:**

8 The Board of Regents, or the Board of Technical Education, or any institution under
9 their control, may not condition enrollment or attendance in a class, training, or orientation
10 on the basis of race or color.

11 Nothing in this section should be construed to prohibit the required collection or
12 reporting of demographic data by institutions of higher education.

13 **Section 4. That chapter 13-1 be amended with a NEW SECTION:**

14 The Board of Regents, or the Board of Technical Education, or any institution under
15 their control, may not authorize or expend ~~funding any money~~ for any purpose prohibited
16 in ~~section 2 or 3~~ of this Act.

17 **Section 5. That chapter 13-1 be amended with a NEW SECTION:**

18 Nothing in ~~sections 2 to 4, inclusive,~~ of this Act:

19 (1) Prevents an employee or a contractor who provides mandatory orientation or
20 training from responding to questions that are raised by participants in the
21 orientation or training and which pertain to the divisive concepts;

22 (2) Pertains to the content or conduct of any course of academic instruction or unit of
23 study at an institution of higher education under the control of the Board of Regents
24 or the Board of Technical Education; or

25 (3) May be construed to inhibit or violate the First Amendment rights of any student
26 or employee, or to undermine the duty of an institution under the control of the
27 Board of Regents or the Board of Technical Education to protect, to the greatest
28 degree, academic freedom, intellectual diversity, and free expression.

29 **Section 6. That chapter 13-1 be amended with a NEW SECTION:**

1 A state agency or school district may not allow any curricula, instruction, standards,
2 or training that promotes a divisive concept, or which directs or compels students or
3 employees to personally affirm, adopt, or adhere to a divisive concept.

4 Nothing in this section prohibits a school district employee from:

5 (1) Discussing, as part of a larger course of academic instruction, a divisive concept in
6 an objective manner and without endorsement; or

7 (2) Permitting or presiding over student debate, regarding a divisive concept, in an
8 objective manner and without endorsement.

9 **Section 7. That chapter 13-1 be amended with a NEW SECTION:**

10 A state agency, school board, school district, or public school may not authorize or
11 expend any money for any purpose prohibited in section 6 of this Act.

12 **Section 8. That chapter 13-1 be amended with a NEW SECTION:**

13 Nothing in sections 6 or 7 of this Act applies to a nonpublic school or an employee
14 of a nonpublic school.

15 For purposes of sections 6 and 7 of this Act, the term, state agency, does not
16 include the Board of Regents, the South Dakota Board of Technical Education, or any
17 institution under their control.