



# Three Hot Button Issues for 2022

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# Three Issues

- ❑ SB 3 and the teaching of “critical race theory.”
- ❑ Books in the library.
- ❑ Dress codes.

# SB 3 Section One: A Civics Training Program

- ❑ The Commissioner will establish a “civics training program” for teachers and administrators. To include:
  1. The TEKS for social studies related to civic knowledge.
  2. Guided classroom discussion of current events.
  3. Simulations and models of governmental and democratic processes consistent with SB 3.
  4. Media literacy.
  5. Strategies for incorporating civics instruction into other subjects.

# An Advisory Board of Experienced Educators

- ❑ The Civics Training Program will have a nine-member advisory board, appointed by the commissioner.
- ❑ "Each member must be a current or former educator with at least ten years of experience."

## Section Two: Transparency

- “Each school district or open-enrollment charter school that uses a learning management system or any online learning portal to assign, distribute, present, or make available instructional materials as defined by Section 31.002 to students shall provide login credentials to the system or portal to each student’s parent.”

## Section Three: SBOE will foster an understanding of.....

- \*The fundamental moral, political, entrepreneurial, and intellectual foundations of the American experiment in self-government;
- \*The history, qualities, traditions, and features of civic engagement;
- \*The structure, function, and processes of government institutions at the federal, state, and local levels; and
- \*The founding documents of the United States.

## Section Three: SBOE will foster the ability to...

- \*analyze and determine the reliability of information sources;
- \*formulate and articulate reasoned positions;
- \*understand how local, state, and federal government works through the use of simulations and models;
- \*actively listen and engage in civil discourse, including discourse with those with different viewpoints;
- \*participate as a citizen in a constitutional democracy by voting.

## Section Three: SBOE will foster an appreciation of....

- \*The importance and responsibility of participating in civic life;
- \*A commitment to the United States and its form of government;
- \*A commitment to free speech and civil discourse.

## Section Three: About the TEKS

- ❑ Each district and OECS will ensure that civics education is taught as part of the social studies curriculum in a manner consistent with the TEKS.
- ❑ Nothing in the law shall be construed as limiting instruction in the TEKS.

# Section Four: Founding Documents

- ❑ When teachers teach about the “founding documents” they must use those documents.
- ❑ The founding documents include: the entire Declaration of Independence; the entire Constitution; the Federalist Papers, including the entirety of essays 10 and 51; excerpts from de Tocqueville’s Democracy in America; transcript of the first Lincoln-Douglas debate; writings of the founding fathers; the entirety of Frederick Douglass’s speeches, “The Meaning of July Fourth for the Negro” and “What the Black Man Wants;” the entirety of MLK’s “I Have a Dream.”

# About That 4<sup>th</sup> of July Speech...

- “What to the American slave is your 4<sup>th</sup> of July?... To him, your celebration is a sham; your boasted liberty, an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless; your denunciations of tyrants, brass fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgivings, with all your religious parade and solemnity are to him mere bombast, fraud, deception, impiety, and hypocrisy—a thin veil to cover up crimes which would disgrace a nation of savages. There is not a nation on the earth guilty of practices more shocking and bloody than are the people of these United States at this very hour.”

# More Excerpts

- ❑ "This 4<sup>th</sup> of July is yours, not mine. You may rejoice, I must mourn."
- ❑ "...for revolting barbarity and shameless hypocrisy, America reigns without a rival."
- ❑ "The existence of slavery in this country brands your republicanism as a sham, your humanity as a base pretense, and your Christianity as a lie."
- ❑ "...in conclusion, notwithstanding the dark picture I have this day presented...I do not despair of this country."
- ❑ "I therefore leave off where I began, with hope."

# Section Five: Controversial Topics

- ❑ Teachers may not be compelled to discuss a widely debated and currently controversial issue of public policy or social affairs.
- ❑ A teacher who chooses to do so “shall explore that topic objectively and in a manner free from political bias.”

# And One More Thing...

- ❑ Teachers may direct a classroom activity that involves students “communicating with an elected official so long as the district, school, or teacher does not influence the content of the student’s communication.”

# Section Five: Eight Forbidden Concepts: First Four

1. That one race or sex is inherently superior.
2. That a person is inherently racist, sexist, or oppressive by virtue of the person's race or sex.
3. That a person should be treated badly solely because of their race or sex.
4. That a person's moral character, standing, or worth is necessarily determined by their race or sex.

# Eight Forbidden Concepts: Last Four

5. That a person, by virtue of race or sex, bears responsibility, blame, or guilt for actions committed by other members of that race or sex.
6. That meritocracy, or traits like a hard work ethic are racist, sexist, or created by members of one race to oppress another race.
7. That the advent of slavery marks the true beginning of the U.S.
8. That slavery and racism are anything other than deviations from, betrayals of, or a failure to live up to authentic American founding principles of liberty and equality.

# What To Do About These Concepts

- ❑ “A teacher, administrator, or other employee of a state agency, school district, or OECS may not: require or make part of a course INCULCATION in the concept that....”
- ❑ We may not “teach, instruct, or train any administrator, teacher, or staff member of a state agency, school district, or open enrollment charter school to ADOPT a concept....”
- ❑ We may not “REQUIRE AN UNDERSTANDING of the 1619 Project.”

# Notice the Verbs

- ❑ Notice: the law forbids INCULCATION or ADOPTION of the concepts.
- ❑ It forbids REQUIRING students to UNDERSTAND the 1619 Project.
- ❑ It does not forbid introducing these things, talking about them, reading about them.

# Inculcation

- ❑ To teach and impress by frequent repetition or admonitions. Merriam-Webster.
- ❑ Consider the difference between what is TAUGHT in our schools vs. what is INCULCATED.
- ❑ SB 3 does not prevent TEACHING about certain concepts. It is about INCULCATING belief in those concepts.

# Section Five: Student Free Speech

- ❑ Schools may not interpret any of this in a way that would punish a student, or “have a chilling effect on reasonable student discussions involving those concepts in school or during a school-sponsored activity.”
- ❑ None of this should limit the teaching of the TEKS.
- ❑ This law does not “create a private cause of action against a teacher, administrator, or other employee...” Schools may take appropriate employment action based on the employee’s compliance with the law.

# Personal Comments....

- ❑ The bill passed during the regular session was so broad that it caused teachers to fear that they could not even mention certain subjects in the classroom.
- ❑ This bill is an improvement. The use of verbs like “inculcate” makes it clear that all of the controversial parts of American history can be taught, and all viewpoints can be discussed.
- ❑ In fact, it’s impossible to teach the TEKS in U.S. History without talking about all of that.

# Books in the Library

- ❑ Removal of books from the library MAY implicate the First Amendment rights of students. We know this because of *Board of Education v. Pico* (1982).
- ❑ That decision is summarized in Policy EF (Legal): “A district shall not remove materials from the library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.”

# How to Respond to Complaints

- ❑ You have a policy on this: EF (Local). Here's what Beaumont ISD's policy says:
- ❑ Try to resolve the matter informally by having the principal meet with the complainant. The principal is to explain how materials are selected, the criteria for selection, and the qualifications of the professional staff who selected the resource. The principal is to explain the intended educational purpose of the resource.
- ❑ The principal can offer a concerned parent an alternative resource.

# More on Policy EF Local

- ❑ If the complainant wishes to make a formal challenge, the principal shall provide a copy of EF Local and a form to request reconsideration.
- ❑ The complainant must use the form and submit it to the principal.
- ❑ The principal then appoints the “reconsideration committee.” Notice: unlike other complaints, this does not go up the chain to the superintendent and board—at least not until the “reconsideration committee” has made a decision.

# An Additional Step in the Process

## MOST COMPLAINTS

Principal

Superintendent

Board

## COMPLAINTS ABOUT BOOKS

Principal

Reconsideration Committee

Superintendent

Board

# Reconsideration Committee

- ❑ Principal appoints the members. The committee must include “at least one member of the instructional staff who has experience using the challenged resource with students or is familiar with the challenged resource’s content.”
- ❑ Other members: “may include District-level staff, library staff, secondary-level students, parents, and any other appropriate individuals.”
- ❑ “All members of the committee shall review the challenged resource in its entirety.” SEE NEXT SLIDE FOR MORE!

# Reconsideration Committee Decides

- ❑ “As soon as reasonably possible, the committee shall meet and determine whether the challenged resource conforms to the principles of selection set out in this policy.”
- ❑ “The committee shall prepare a written report of its findings and provide copies to the principal, the Superintendent or designee, and the complainant.”
- ❑ The complainant may then appeal using the normal procedures (DGBA, FNG or GF).

# Guiding Principles

- ❑ Complainant may raise objections “despite the fact that the professional staff selecting the resources were qualified to make the selection, followed the proper procedure, and adhered to the objectives and criteria for instructional resources set out in this policy.”
- ❑ “A parent’s ability to exercise control over reading, listening, or viewing matter extends only to his or her own child.”
- ❑ “Access to a challenged resource shall not be restricted during the reconsideration process, except the District may deny access to a child if requested by the child’s parent.”

# Five Objectives for Instructional Resources

1. Enrich and support the curriculum.
2. Stimulate growth in factual knowledge, enjoyment of reading, literary appreciation, aesthetic values and societal standards.
3. Present various sides of controversial issues so that students can develop skills in critical analysis and making informed judgments.
4. Represent many ethnic, religious, and cultural groups and their contributions to the national heritage and world community.
5. Provide a wide range of background information.

# What's the “Major Criterion”?

- “The major criterion for the final decision on challenged resources is the appropriateness of the resource for its intended educational use. No challenged instructional resource shall be removed solely because of the ideas expressed therein.”

# For Board Members

- ❑ Notice that this policy does not call for the board to get involved until all of the other steps have occurred. Board members who receive complaints from parents should say “we have a policy on that. Please talk to the principal first.”
- ❑ Removal of books based on vulgarity or graphic sexual content is less risky than removal of books based on political or sociological ideas contained within them. Remember the First Amendment is implicated only if the purpose is to deny students access to ideas.
- ❑ If the board wants to change the policy, of course it can do so. But get some legal advice about that.

# Dress Codes

- ❑ 4<sup>th</sup> Circuit ruled last year that dress codes are subject to Title IX. The challenge was from elementary aged girls in a charter school who were required to wear skirts. The court did not say that this violates Title IX—but it did say that Title IX applies.
- ❑ This will encourage more challenges to gender-based distinctions in dress codes. There have been several lawsuits against Texas districts over this issue over the last few years. It's only going to increase.

# Suggestions

- Not putting my suggestions in the PowerPoint.
- I'll just tell you.....



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