

Bills Restricting how South Carolina Teachers can Teach about Race and Gender

As faculty at Clemson University, we are concerned about a bill that has been introduced in the SC House of Representatives entitled “A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-29-12 SO AS TO PROTECT THE DIGNITY AND RIGHTS OF ALL INDIVIDUALS TO BE FREE FROM IDEOLOGICAL COERCION AND INDOCTRINATION IN PLACES OF LEARNING, CHILDCARE, AND EMPLOYMENT THAT RECEIVE, OR BENEFIT FROM, STATE FUNDS OR ACCOMMODATIONS, DIRECTLY OR INDIRECTLY.” (H 4605). This is one of 5 bills currently being debated and considered in the SC legislature that aim to specify and restrict how South Carolina schools from kindergarten through college should teach about race, gender and other individual differences. (Some of these bills use the phrase Critical Race Theory, including H 4799, which bears that name.) This statement focuses on H 4605 since it applies to higher education. The text of this bill can be found at https://www.scstatehouse.gov/sess124_2021-2022/bills/4605.htm

The House Education and Public Works Committee has completed holding public hearings on H 4605 and, after returning from recess on March 28, they may soon proceed out of committee to debate in the full House. Although some observers have suggested that this bill is unlikely to become law, it is important to note that some of the language in the bill was included in last year's SC budget law, which was passed and is currently in effect for K-12 teachers.

Here are links to information and opinion about this bill from Molly Spearman, SC Superintendent of Schools

<https://www.thestate.com/news/local/education/article258460518.html> and PEN America (which promotes free speech and press freedom) <https://pen.org/in-higher-education-new-educational-gag-orders/> .

The PEN America article stated that the SC bill (H 4605) is one of the broadest and most restrictive. It applies to public and private educational institutions from elementary school through post-secondary schools and to private businesses. It has strong enforcement mechanisms—a public hotline for reporting violations, prompt investigation by the Attorney General, and potential loss of state and grant funding.

Below we lay out some of our concerns about this bill. But first, keep in mind that the Faculty Senates of University of South Carolina-Columbia, University of South Carolina-Beaufort, The Citadel, and Coastal Carolina University have recently passed resolutions against these bills. Furman’s Senate planned to vote on this about a week ago, so they may be added to the list. Also, at the public hearings on this bill in the South Carolina House of Representatives, representatives from the South Carolina Education Association, which represents K-12 teachers, the SC Council for Social Studies and History Education, the Richland Public School District and, as mentioned above, the State Superintendent of Education all spoke out strongly against this bill. The College of Charleston held a public town hall on these anti-critical-race-theory bills last

week. In other words, educators representing K-12 schools and universities all over the state have publicly critiqued this bill, with one of the notable exceptions being Clemson University.

Therefore, we call on the Clemson University Faculty Senate to discuss H 4605 and encourage them to pass a resolution against this bill like the resolutions passed by the Faculty Senates of University of South Carolina-Columbia, University of South Carolina-Beaufort, The Citadel, and Coastal Carolina University.

We are concerned about the H 4605 for two main reasons.

Concerns

First, H 4605 states that the idea that “an individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of his or her race, ethnicity, sex, sexual orientation, national origin, heritage, culture, religion, or political belief” is “inherently discriminatory.” [All quotes are from the bill.] It also states that students should not receive “instruction, presentations, discussions, or counseling that affirms or promotes” this idea.

As you may know, this language stems from the concern among some legislators that schools are teaching ideas about race that might make students in some racial groups feel discomfort or guilt when they hear about discrimination suffered by people in another racial group. Superintendent Spearman thinks that language like this could be interpreted to restrict or even forbid teaching about slavery or the Holocaust.

Our **second** concern has to do with language in H 4605 that would restrict teaching about ideas that are regularly taught in Clemson classes across multiple departments. The bill defines as discriminatory and prohibits instruction in the idea that “an individual must be compelled to affirm, accept, adopt, or adhere to ... controversial and theoretical concepts, such as: (a) the existence of genders other than male and female and gender fluidity; ... (c) unconscious or implicit bias; or (d) that race and sex are social constructs.”

The concepts that genders or sexes beyond male and female exist, that people have biases or prejudices against other groups based on both conscious and unconscious influences, and that racial groupings are influenced by social factors at least as much as biological or genetic factors are factual claims that have been well tested by decades of research in multiple scientific disciplines, including genetics, medicine, sociology, anthropology and psychology. Based on this evidence, these ideas are accepted as true by many experts in these fields. That is, they are mainstream ideas, not “controversial and theoretical” (i.e., untested) ideas as suggested in H 4605. For example, the American Medical Association recently released a statement that race is a social construct (and that people have unconscious racial bias) and that these ideas should be taught in medical education and used in medical research. <https://www.ama-assn.org/delivering-care/health-equity/ama-racism-threat-public-health> Thus, H 4605 would require faculty in SC colleges to teach about race and gender in ways that go against consensus knowledge in their fields.

Implications

It may seem that the word “compelled” in the wording of the bill means that we would still be allowed to teach these concepts that have been labeled as controversial as long as we don’t compel students to believe them. However, focusing on the word compelled ignores the fact that teachers cannot compel students to believe any idea and would not do so if they could. Problems could still arise in teaching about these concepts depending on what the SC Attorney General interprets as violations of the law and what universities might proactively do to avoid losing funding. The PEN America article cited above describes how universities in states with laws like H 4605 have required their faculty to not assign mandatory readings on critical race theory and, in one case, have even canceled a class on race and ethnicity.

The potential loss of state funding in H 4605 could incentivize Clemson to impose similar restrictions. It could also incentivize individual faculty members to avoid teaching about these concepts. Finally, it could incentivize current faculty to want to leave Clemson and new faculty to not want to work at Clemson. Imagine what new faculty recruits would feel when they find out that at Clemson, they and their university could be penalized for teaching mainstream, accepted knowledge in their field.

Furthermore, this law would send a message beyond how we teach about race and gender. It would establish that curriculum in SC colleges is no longer under the control of highly trained experts in a particular field who use systematic methods and ethical principles to determine what is accepted knowledge, i.e., faculty. This would degrade the quality and reputation of higher education in SC.

Just as important, students would also be harmed by H 4605, as they need a rich understanding of concepts like race, gender, sexual orientation, and implicit bias not only for advancement in many careers but also for informed citizenship. The best way to help our students gain this understanding is for educational institutions to follow the principles of viewpoint diversity and free speech by allowing teachers to present these concepts to students along with full contextual background, discuss the evidence for and against them with students, and discuss their implications with students. It does our students a disservice to inhibit discussion of and learning about these critical concepts.

Conclusion

So, faculty senators, please:

- help keep education in South Carolina first rate;
- help keep our students well educated about critical issues facing our country;
- discuss the issues raised by H 4605 and join the chorus of other educators in South Carolina in sending a message to the South Carolina legislators who have proposed this bill.

Signatories

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