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H.168

Introduced by Representatives Headrick of Burlington and McCann of

Montpelier

Referred to Committee on

Date:

Subject: Education; teachers; academic freedom; State Board of Education;

EQS; supervisory union board duties; course of study

Statement of purpose of bill as introduced: This bill proposes to (1) prohibit

restriction in public schools of instruction on social equity and justice; (2)

require instruction in public schools on social equity and justice; (3) require

public schools to adopt policies that affirm the dignity of educators and

students; (4) prohibit the influence of privately funded groups on the

development of public school curriculum; (5) amend the minimum course of

study to include social equity and justice; (6) require the Agency of Education

to develop resources and supports for LGBTQIA+ students and families; and

(7) prohibit adverse action against teachers for performing work activities in a

manner consistent with State or federal law.

An act relating to protecting academic freedom for prekindergarten through
grade 12 educators

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. PURPOSE; INTENT

3 (a) Purpose. The purpose of this act is to safeguard the academic freedom
4 of Vermont's public educators in grades prekindergarten through grade 12,
5 inclusive, to provide instruction on topics related to social equity and justice, to
6 affirm and respect diverse identities, and to ensure that curriculum decisions
7 remain under the purview of Vermont's public education authorities without
8 external influence.

9 (b) Intent. It is the intent of the General Assembly that nothing in this act
10 be construed to alter, amend, or conflict with existing educational standards
11 adopted by the State Board of Education, including the Common Core State
12 Standards and the Next Generation Science Standards, or impose additional
13 requirements on the development or implementation of curricula beyond those
14 contained in 16 V.S.A. §§ 164 and 165. It is not the intent of the General
15 Assembly to mandate or dictate specific curriculum or instructional materials.
16 It is the intent of the General Assembly for curriculum development and
17 implementation to remain the responsibility of supervisory unions within the
18 standards set by the State Board of Education. This act is intended solely to
19 safeguard academic freedom and ensure inclusive instruction on topics related
20 to social equity and justice.

1 Sec. 2. 16 V.S.A. § 914 is added to read:

2 § 914. PROHIBITION ON THE RESTRICTION OF INSTRUCTION ON
3 SOCIAL EQUITY AND JUSTICE

4 (a) Prohibition. The State Board of Education, supervisory union boards,
5 and school boards shall not prohibit public educators from providing
6 instruction on topics of social equity or social justice.

7 (b) Instruction.

8 (1) Instruction in public schools may include:

9 (A) historical systems of oppression and exclusion;

10 (B) the concept of race and gender as social constructs; and

11 (C) social identities and the intersection of power and privilege
12 within those identities.

13 (2) All public school curricula shall allow for a broad range of books,
14 literature, and media to support instruction on the topics contained in
15 subdivision (1) of this subsection.

16 (3) No instructional tools or materials shall be removed from classrooms
17 without prior review by the State Board of Education. Library material
18 selection policies and procedures for the reconsideration and retention of
19 materials shall comply with section 1624 of this title.

1 (4) Public educators shall not be prohibited from using a gender-
2 affirming approach in the educator’s instruction, including honoring students’
3 stated preferred names and pronouns.

4 (5) Educators shall have the right to integrate personal perspectives,
5 cultural identities, and lived experiences into their teaching methods, provided
6 they meet professional standards established by the Standards Board for
7 Professional Educators.

8 (6) Curriculum development and implementation shall remain the
9 responsibility of supervisory unions within the standards set by the State Board
10 of Education.

11 Sec. 3. 16 V.S.A. § 165 is amended to read:

12 § 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL
13 OPPORTUNITIES; INDEPENDENT SCHOOL MEETING
14 EDUCATION QUALITY STANDARDS

15 (a) In order to carry out Vermont’s policy that all Vermont children will be
16 afforded educational opportunities that are substantially equal in quality, each
17 Vermont public school, including each career technical center, shall meet the
18 following education quality standards, which shall foster inclusivity and affirm
19 the diverse identities and lived experiences of educators and students:

20 * * *

1 (3) The school substantially meets standards adopted by rule of the State
2 Board regarding conditions, practices, and resources of schools. The standards
3 shall prohibit the influence of privately funded or nongovernmental groups in
4 decisions regarding curriculum development, instructional materials, and
5 student preparation and shall address those aspects of the following that are
6 most closely associated with improving student performance:

7 (A) school leadership, staff, and support services;

8 (B) instructional practices and curriculum leadership, content, and
9 coordination, which shall require instruction on social equity and justice;

10 (C) educational materials and school facilities; and

11 (D) access to current technology.

12 * * *

13 (8) The school maintains a safe, orderly, civil, and positive learning
14 environment that is free from hazing, harassment, and bullying; and is based on
15 sound instructional and classroom management practices and clear discipline
16 policies that are consistently and effectively enforced. This shall include
17 adopting policies and practices that affirm the dignity of all educators and
18 students that foster mutual respect and recognize the intrinsic value of each
19 individual’s self-identified characteristics, cultural background, and lived
20 experiences, which implicitly encompasses the use of pronouns, respect of
21 individual identities, and the fostering of inclusive environments.

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Sec. 4. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall engage local school board members and the broader education community and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high-priority educational policies and issues as they arise; and act in accordance with legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

* * *

(22) Adopt rules pursuant to 3 V.S.A. chapter 25 to ensure the professional autonomy of educators to teach in a manner reflecting their identities and lived experiences.

Sec. 5. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

1 (1) Establish a supervisory union-wide curriculum, by either developing
2 the curriculum or assisting the member districts to develop it jointly, and
3 ensure implementation of the curriculum. The curriculum shall:

4 (A) meet the requirements adopted by the State Board under
5 subdivision 165(a)(3)(B) of this title; and

6 (B) include instruction on social equity and justice, addressing
7 historically marginalized groups, systems of oppression, and the social
8 constructs of race and gender.

9 (2) Assist each school in the supervisory union to follow the curriculum
10 as adopted under the requirements of the State Board pursuant to subdivision
11 165(a)(3)(B) of this title.

12 * * *

13 (18) Act independently of privately funded groups when developing
14 curricula and policies and prioritize the academic and social development of
15 students.

16 * * *

17 Sec. 6. 16 V.S.A. § 906 is amended to read:

18 § 906. COURSE OF STUDY

19 (a) In public schools, approved and recognized independent schools, and in
20 home study programs, learning experiences shall be provided for students in
21 the minimum course of study.

1 (b) For purposes of this title, the minimum course of study means learning
2 experiences adapted to a student's age and ability in the fields of:

3 (1) basic communication skills, including reading, writing, and the use
4 of numbers;

5 (2) citizenship, history, and government in Vermont and the United
6 States;

7 (3) physical education and comprehensive health education, including
8 the effects of tobacco, alcoholic drinks, and drugs on the human system and on
9 society;

10 (4) English, American, and other literature;

11 (5) the natural sciences; ~~and~~

12 (6) the fine arts; and

13 (7) social equity and justice, including both historical and contemporary
14 issues affecting marginalized groups.

15 Sec. 7. 16 V.S.A. chapter 42 is amended to read:

16 CHAPTER 42. ~~STUDENT RIGHTS~~ ACADEMIC FREEDOM

17 * * *

18 § 1625. SUPPORT AND RESOURCES FOR PARENTS, GUARDIANS,

19 AND FAMILIES OF LESBIAN, GAY, BISEXUAL,

20 TRANSGENDER, QUEER, AND QUESTIONING STUDENTS

1 (a) The Agency of Education shall develop resources, or, as appropriate,
2 update existing resources, for supports and community resources for the
3 support of parents, guardians, and families of lesbian, gay, bisexual,
4 transgender, queer or questioning, intersex, and asexual (LGBTQIA+)
5 students, as well as develop strategies to increase the support for LGBTQIA+
6 students and thereby improve overall school and community climate. The
7 resources shall be designed for use in public schools and approved independent
8 schools that serve students in grades seven to 12, inclusive. The Agency shall
9 collaborate with parents, guardians, and families in the development of such
10 resources and supports.

11 (b) The Agency shall periodically update the supports and community
12 resources developed pursuant to subsection (a) of this section to ensure
13 compliance with changes in the law.

14 (c)(1) As used in this section, “school-based supports and community
15 resources for the support of parents, guardians, and families of LGBTQIA+
16 pupils” includes the following:

17 (A) parents, guardians, and families of LGBTQIA+ students support
18 groups or affinity clubs and organizations;

19 (B) safe spaces for parents, guardians, and families of LGBTQIA+
20 pupils;

- 1 (C) antibullying and harassment policies and related complaint
2 procedures for parents, guardians, and families to access;
3 (D) counseling services;
4 (E) school staff who have received antibias or other training aimed at
5 supporting LGBTQIA+ youth and their parents, guardians, and families; and
6 (F) suicide prevention policies and related procedures for parents,
7 guardians, and families to access.

8 (2) As used in this section, “community resources for the support of
9 parents, guardians, and families of LGBTQIA+ pupils” includes the following:

- 10 (A) local community-based organizations that provide support to
11 parents, guardians, and families of LGBTQIA+ youth; and
12 (B) local physical and mental health providers with experience in
13 treating and supporting parents, families, and guardians of LGBTQIA+ youth.

14 § 1626. STUDENT SUPPORT

15 (a) An employee or contractor of a school district, supervisory union, or
16 approved independent school shall not be required to disclose any information
17 related to a student’s sexual orientation, gender identity, or gender expression
18 to any other person without the student’s consent unless otherwise required by
19 State or federal law.

20 (b) An employee or contractor of a school district, supervisory union, or
21 approved independent school shall not enact or enforce any policy, rule, or

1 administrative regulation that would require an employee or contractor to
2 disclose any information related to a student's sexual orientation, gender
3 identity, or gender expression to any other person without the student's consent
4 unless otherwise required by State or federal law.

5 (c) Any policy, regulation, guidance, directive, or other action of a school
6 district, supervisory union, or approved independent school that is inconsistent
7 with subsections (a) and (b) of this section shall be deemed invalid and shall
8 not have any force or effect.

9 § 1627. EMPLOYEE PROTECTIONS

10 An employee or contractor of a school district, supervisory union, the
11 Agency of Education, State Board of Education, approved independent school,
12 or a member of a school district board, supervisory union board, or governing
13 body of an approved independent school shall not in any manner retaliate or
14 take adverse action against any employee, including by placing the employee
15 on administrative leave on the basis that the employee:

16 (1) supported a student in the exercise of the student's rights under State
17 or federal law;

18 (2) performed the employee's work activities in a manner consistent
19 with applicable State or federal law; or

1 (3) provided instruction to students consistent with section 914 of this
2 title, current content standards, curriculum frameworks, and instructional
3 materials and any applicable State or federal law.

4 Sec. 8. EFFECTIVE DATE

5 This act shall take effect on passage.