



ALABAMA  
ASSOCIATION OF  
SCHOOL BOARDS

## DEI & Public Schools

The debate surrounding the Diversity, Equity, & Inclusion (“DEI”) bill brought strong emotions and even national attention. Some of us have legitimate concerns about any law that impacts educational freedom—especially when that law addresses the issue of race, ethnicity, gender and other sensitive topics. Still, the [original bill](#) that was introduced in February and the law that was ultimately signed into law have important differences. This is why it’s extremely important that we always look beyond the headlines and look at the actual language of the law. Now that the bill has been signed into law, we hope these FAQs will help you navigate what the law allows and does not allow in your schools, training programs and even the impact for AASB and other entities. As with any new law, it will take some time to flesh out and interpret what the law means through State Department guidance, Attorney General’s opinions and case law. As always, reach out to your local counsel for legal advice.



### Which entities or people are covered by this law?

The DEI law, also known as Act [2024-034](#), covers local boards of education, state agencies, and public universities. Our guidance will focus primarily on local boards of education and our state agency members.

Charter schools do not appear to be covered.

The law also applies to public K-12 students and university students, but again, we will focus our questions on K-12 students.



## What is considered a “divisive concept” under this law?

The following ideas are defined as “divisive concepts”:

- One race, color, sex, religion, ethnicity, or national origin is inherently superior or inferior to another;
- A person should be discriminated against or treated badly because of his race, color, sex, religion, ethnicity, or national origin;
- A person’s moral character is determined by his race, color, sex, religion, ethnicity, or national origin;
- Whether consciously or subconsciously, a person is inherently racist, sexist, or oppressive by virtue of his race, color, sex, religion, ethnicity, or national origin;
- A person is inherently responsible for actions committed by others of the same race, color, sex, religion, ethnicity, or national origin in the past;
- Fault, blame or bias can be assigned to a person based on his race, color, sex, religion, ethnicity, or national origin;
- A person should accept, acknowledge, affirm or assent to a sense of guilt, complicity or a need to apologize based on his race, color, sex, religion, ethnicity or national origin; and
- Meritocracy and traits like hard work are racist or sexist.



## What is a diversity, equity, and inclusion (DEI) program?

A DEI program is defined as a program, class, training, seminar, or event where **attendance is based on** a person’s race, sex, gender identity, ethnicity, national origin or sexual orientation, or that otherwise violates this act.

It is very unlikely that your schools or systems will have program **where attendance is based on** a person’s race, sex, etc. but you may have a “diversity, equity, and inclusion” training or seminar that fully complies with this law. To avoid confusion, you may want to consider renaming



your event or making it clear in your advertisement or announcement that your event complies with Act 2024-034.

Programs, trainings and classes necessary to comply with other state laws, federal laws or court orders are not impacted by this law and are allowed.



## What can school boards and state agencies NOT do under the DEI law?

Under the DEI law, the following actions are prohibited:

- Sponsoring a DEI program or maintaining an office or department that promotes DEI programs;
- Directing or compelling a student, employee, or contractor to personally affirm, adopt or adhere to a divisive concept;
- Requiring its students, employees or contractors to attend or participate in DEI programs;
- Requiring its students, employees or contractors to attend or participate in training, orientation or course work that advocates for or requires assent to a divisive concept;
- Requiring a student, employee or contractor to share his personal point of view on a divisive concept outside of an academic setting;
- Requiring students, employees or contractors to participate in state or local lobbying for legislation related to a divisive concept, as part of any required curriculum or mandatory training;
- Penalizing or discriminating against a student, employee or contractor on the basis of his refusal to support, believe, endorse, embrace, confess or otherwise assent to a divisive concept or diversity statement;
- Conditioning enrollment or attendance in a class, training or orientation solely on the basis of race or color; and
- Authorizing or spending funds, or applying for or accepting grants, federal funding or private funding for the purpose of compelling assent to a divisive concept or any other purpose barred by this act if those funds are provided to student, faculty or staff organizations or associations.





## What are school boards and state agencies allowed to do under the DEI law?

While there are a number of prohibited activities, there are several activities that are specifically allowed by the law:

- Students, staff and faculty organizations/associations may host DEI programs or discussions that involve divisive concepts as long as no state funds are used to sponsor those programs. The sponsor must be identified in event advertising and at the event.
- Local board and state agency employees may respond to questions raised by participants (including students) in orientation, course work and training that pertain to divisive concepts or DEI as part of their job duties.
- Local boards may teach topics of historical events in a historically accurate context.
- State agencies may promote racial, cultural, ethnic diversity and inclusiveness as long as those efforts are consistent with the requirements of this law.
- Local boards and state agencies may provide housing, athletic programs or social organizations segregated by sex.



## So bottom line, can our teachers teach about the Civil War, slavery and civil rights?

Yes. As noted above, teachers can teach about historical events in a historically accurate context. As always, instruction should be consistent with the approved curriculum and Course of Study.



## Can our schools have a program or project celebrating Black History, Latino History or Women's History?

Yes. This law does not prohibit recognitions or even celebrations of our differences. It prohibits instruction that one group is better or worse than another because of those differences.



### What about the First Amendment? Does that still apply?

Yes. The DEI law specifically states that this law shall not violate any student or employee's First Amendment rights. Moreover, the Supremacy Clause is a part of the US Constitution which states that federal law is the supreme law of the land, so the First Amendment which protects freedom of speech remains intact.



### When does this law go into effect?

This law becomes effective October 1, 2024.



### Can employees be disciplined if they violate this law?

Local boards and state agencies can discipline or terminate employees who intentionally violate this law subject to the applicable personnel law, e.g. Students First Act, Teacher Accountability Act, etc.



### I heard the State Board did something on this. What was that about?

That's correct. Long before this law was passed, the State Board of Education adopted a resolution on this topic. The 2021 [resolution](#) prohibited local boards from offering instruction that would indoctrinate students from ideologies promoting one race or sex above another. That resolution was eventually codified in Rule [290-040-040-.02\(2\)](#) and requires instruction, standards, professional development and other activities be in accordance with the 2021 resolution.



✓ **Is AASB impacted by this bill? Are other education associations impacted?**

Yes. Any person or entity that provides services to a local board of education is a “contractor” subject to this bill. This should be read **broadly** to include any number of people, businesses, vendors, and organizations that your board works with, including AASB. As a result, the trainings and conferences that AASB provides are covered by this law and we are confident our programming complies with this law.

The only types of entities specifically excluded from this law are those providing construction services.

✓ **AASB offers training that addresses issues of race. Do those violate the law?**

No. AASB’s training and courses deal primarily with the impact of poverty on students and families which can impact people of any race, ethnicity and gender. They include Barriers to Learning, Educational Equity Training and the Poverty Simulation. In some communities, we find poverty impacts more students of color. Regardless, while these trainings do try to expose our members to the impact of poverty, none of the trainings teach the divisive concepts.

✓ **We have laws in this state that require diversity in certain boards. Do those still apply?**

Yes. The DEI specifically protects the requirements of state laws requiring diversity in membership of state boards, commissions and authorities reflecting racial, gender, geographic, urban, rural and economic diversity of the state. Examples of boards that have these requirements are the Alabama Public Charter School Commission, the Board of Trustees for the Alabama School of Cyber Technology and Engineering and the Department of Youth Services Board of Directors.

✓ **The State of Alabama has an Office of Minority Affairs. Will that continue to exist?**

Yes. This law specifically states that it should not be interpreted to affect that state agency.