Reframing FL HB7 as a call for multicultural education

Understanding the implications of HB7 for teaching and training

There is no question that the intention of HB 7 was to chill excellence and equity in public education, particularly for diverse populations in our state. The rhetoric of being “anti- WOKE” – a direct attack on White people who are becoming socially conscious and morally responsible – accompanied the bill as it was passed into law. However, the letter of the law, as analyzed herein, allows for teachers, school districts and businesses to continue to teach as they have done; the law is written against indoctrination and compelling people to believe which is hardly the goal of education.

What follows is an analysis limited to the following sections of the bill:

- Introduction;
- Section 1 - Unlawful employment practices [lines 60> ]
- Section 2 – 1000.05: Discrimination against students and employees in FL K-20 public education system [lines 114>]
- Section 3 - Required Instruction (1003.42; 1006.29; lines 283>)

Introduction

Banned:

Subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe specified concepts constitutes discrimination based on race, color, sex, or national origin (lines 3-10)

Commentary: Educators typically do not “inculcate” or “compel” individuals to “believe” Baldwin (1963): The purpose of education, finally, is to create in a person the ability to look at the world for himself [or herself], to make his [or her] own decisions ... to ask questions of the universe, and then learn to live with those questions, is the way he [or she] achieves his [or her] own identity. (p. 42)¹

Septima Clark:²

“I believe unconditionally in the ability of people to respond when they are told the truth. We need to be taught to study rather than believe, to inquire rather than to affirm.”

Implications for teaching:

- Ensure that curriculum materials, including textbooks, do not explicitly or implicitly “inculcate” “beliefs” that could lead to assumptions of social superiority (e.g. national, racial, linguistic, gender etc.) that could lead to discrimination.


² https://tcleadership.org/septima-clark/
- Where needed, critically examine texts for such biases including but not limited to the following curricular biases: linguistic, stereotyping, invisibility, unreality, imbalance, fragmentation, cosmetic (see https://www.sadker.org/curricularbias.html)
- Engage in pedagogy that supports learners’ independent, critical thinking; provide facts over conjecture; examine multiple intellectual perspectives on topics

**Banned:**
*Classroom instruction and curricula from being used to indoctrinate or persuade students in a manner inconsistent with certain principles or state academic standards (41-44)*

**Commentary:** Educators typically do not “indoctrinate.” Indoctrination typically occurs in places of worship, in families or specific social groups. In fact, school curriculum might need to counter such external indoctrination.
- It is unclear what the “certain principles” in reference are.

**Teaching implications:**
- Integrate multiple perspectives in the lesson. Diversity of viewpoints is the foundation against indoctrination and the ‘danger of a single story.’
- Draw on the principles of critical pedagogy, where students are able to engage in problem posing, dialogic learning to draw their own conclusions based on the evidence examined.

**Section 1** (Amending Section 760.10): **Unlawful Employment Practices**

Banned as ‘discrimination’: instruction/training that “compels” an individual to believe (Lines 69-70) the following points 1-8: (lines 72-103; repeated in lines 222- 257; 507-523)

We **MAY** teach the following points. There is no prohibition on discussing the following as long as it is given in an objective manner without endorsement.

1. *Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin. (72-74).*

**Commentary:** It is easy to not endorse this. We do not want anyone to believe this.

Multicultural education that affirms that all humans are equal. However, history (including the history of education) is replete with examples of how social hierarchies have been perpetuated through the law and curriculum. Our response to this ban could offer accelerated progress towards racial/gender/etc. equality.

**Teaching Implications:**
- Examine extant curriculum to interrogate explicit and implicit representations to ensure that no form of social superiority/inferiority is engendered intentionally or unintentionally in curriculum.
- Where needed, critically examine texts for such biases including but not limited to the following curricular biases: linguistic, stereotyping, invisibility, unreality, imbalance, fragmentation, cosmetic (see https://www.sadker.org/curricularbias.html)
2. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously. (75-77)

Commentary: It is easy to not endorse this. We do not want anyone to believe this. No one is born racist/sexist etc. Bigotry is learned.

Teaching Implications:
- Given that racism, sexism etc. are learned, let’s make sure that we don’t teach it through the curriculum and that the curriculum embraces an anti-racist, anti-bigotry stance.
- Where appropriate create opportunities for students to learn about anti-racist, anti-sexist etc. individuals and communities whose lives and work they may choose to emulate as appropriate.
- Based on the wording of this law, we probably need to either challenge or avoid statements that suggest that people were “inherently” racist and note that such acts came as a consequence of conscious decision making through learned behavior.

3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin. (78-80)

Commentary: What exactly is being banned here is ambiguous. The diversity of humanity allows us to agree on the following:
- a person’s character is not determined by race, color, sex, or national origin
- a person’s morality is not determined by race, color, sex, or national origin
- a person’s race, color, sex, national origin at birth does not determine status as privileged or oppressed; but the circumstances of society into which one is born does (e.g. review statistics of infant mortality by race, class, place of birth etc.)
- a person’s status as privileged or oppressed is often shaped/influenced by their position in a racist, sexist, homophobic, xenophobic etc. society
- a person’s intersectional identity with reference to race, color, sex, or national origin often impacts their status as oppressed or privileged in a society that is stratified by race, color, sex and national origin

Teaching implications:
- Teach about privilege and oppression using data that allow students to come to their own conclusions about the connections between race, gender, class, national origin and other social factors and one’s opportunities for success in society as privileged or marginalized.
- Provide examples of “moral character” from a diverse range of people and connect how patterns of social privilege/oppression mediated their lives.
- Students could be encouraged to bring in their choices of data or leaders to study.

4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin. (81-83)

Commentary: Wording/intent is unclear. We can all agree that we need to treat one another with respect. The injunction to “not attempt to treat others without respect to
“...” reads like a warning against color-blindness etc., since treating others “with respect to race, color, ...” invites attention to these factors in our interactions.

Teaching implications: Develop curriculum and pedagogy that explicitly model respect for race, color, sex, gender, national origin and other factors of social difference.

5. **An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.** (84-88)

Commentary: At its face value, this statement seems to get at a popular response to discussions of slavery, Jim Crow laws, the seizure of indigenous lands etc. that today’s generations cannot be held responsible for the actions of their ancestors. It is clear that this ban is only about holding an individual responsible. The discussion of collective, national responsibility is therefore permissible as appropriate. It is unclear how far in history the reference to the “past” encompasses.

Teaching implications:
- When teaching history, provide data about who benefitted from the atrocities of the past and how those benefits persist in patterns of privilege and marginalization today (e.g. corporate profits from plantations; redlining; segregation; disenfranchisement).
- Where appropriate, trace how historical patterns are evident in adverse treatment of people because of their race, color, sex, national origin etc.
- Create space for students to debate/discuss/envision steps that can be taken as morally responsible citizens in a diverse society that respects all races, colors, sexes, nationalities etc. Discussions of how Germany dealt with Nazi atrocities following WW2, or South Africa developed Truth and Reconciliation might offer models of collective responsibility.

6. **An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.** (89-92)

Commentary: This appears to be an attack on Affirmative Action and on current institutional efforts in DEI following the calls for racial equity.

It is unclear if the following is also not to be endorsed:

An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.

An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion—to preserve historical patterns of privilege and exclusion.
Regarding hiring and recruitment: Increasingly, basic employment requirements will include the ability to work effectively with diverse groups of people. With criteria like that, we are less likely to need explicit Affirmative Action policies to develop dynamic and inclusive workplaces in 2022 and beyond. It will likely be those from more demographically sheltered backgrounds who will need explicit and deep education on DEI in the workplace to remain competitive in the job market.

**Teaching implications:** Don’t discriminate!
- Recognize that “diversity” includes people of all races, color, sexes and national origin (plus so many more facets of difference).
- Provide examples and data for how discrimination has operated in the past, who it has benefited with what effects. Let students draw their own conclusions, including comparisons between the past and the present.

7. **An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race, color, sex, or national origin.**

**Commentary:** It is easy to not endorse this. Distress is not mandatory for learning, and we do not need students to believe that it is.
- BIPOC and female-identifying students have long had to endure discomfort, anguish, psychological distress as documented in scholarly discussions of micro-aggressions, grit and resilience, or imposter syndrome.
- There is some argument that a socially conscious person will legitimately feel distressed when learning about historical events that discuss injustice. What is the socially responsible response to learning about Jim Crow laws, the Trail of Tears or eugenics?
- The concerns with “guilt” have typically been limited to a small group of White students. As multicultural educators we are well aware about the need to help students push past the guilt towards advocacy for equity.
- We are also aware of teachers’ attributions of guilt to Muslim students in the aftermath of the 9-11 attacks and the anguish and psychological distress caused among students of the LGBTQ community in their erasure from the curriculum and inclusive school policy and practice.
- It is difficult to anticipate whether a student will/ will not feel distress about a topic.

**Teaching implications:**
- We should NOT endorse that students need to feel guilt or distress in order to be successful in the lesson.
- Psychological distress – Review the curriculum (including instructional activities and role plays) to consider how students might experience distress and how such distress might be mitigated. Such mitigation should not come at the expense of another group. This does not mean that the curriculum that encompasses weighty topics is to be abandoned. As good pedagogues we need to consider how we might anticipate and manage the emotional and psychological responses of the students to this material. Letting the administrators, parents and students know ahead of time about this material would be helpful.
- Regarding guilt – Teach students about White abolitionists or anti-racist activists to counter the claim that the curriculum presents “all White people” as racist.
- Draw on (solicit) students’ interest and choices when developing the curriculum as this will likely diminish students’ distress.
- Link lessons to standards and develop clear and public documentation of lesson plans.
- Keep administrators/parents in the loop about lessons.
- Follow up asap with students who might appear distressed with a particular lesson.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin. (99-103)

Commentary: There is significant scholarship to the contrary.

Teaching implications:
Since we are asked not to endorse the statement, but are allowed to discuss it objectively, present alternating arguments on the relative ‘objectivity’ of these constructs and the (whose) purposes that they serve.

Note that the above points 1-8 may not be construed to prohibit discussion of the concepts listed therein as part of a course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts. (104-108; 258-262)

HB7 does NOT prohibit the teaching of these topics. It prohibits the endorsement of them or requiring students or employees to believe them.

Section 2 – Discrimination against students and employees in FL K-20 public education system is prohibited

Banned: Discrimination on the basis of race, color ethnicity, national origin, sex gender, disability, religion, or marital status against a student or an employee in the state system of public K-20 education is prohibited. (117-120)

Commentary:
- It is unclear why ethnicity was replaced by color. The former is more concrete and is easily identified with by the individual, whereas skin color is ambiguous, subjective and typically externally imposed on the individual.
- Similarly, the term sex is used instead of gender, which has been deleted. This change privileges dichotomous categories of ‘sex at birth’ based on genitalia [externally imposed on the individual] rather than a more fluid notion of gender as identity [as determined by the individual].
- Biologically/ chromosomally there are more than two potential options for sex assigned at birth. This discussion of sex might be an entry point for diminishing sexism and increasing tolerance (as required in this bill.)
- There is evident tension in the claims for ‘individual freedom’ in curricular choice, but its truncation in the right of individuals to construct their own personal identity with reference to ethnicity and gender.

Section 4a) repeats the points 1-8 on lines 222-262.

**Section 3 – Required Instruction (1003.42)**
There is much that educators are required to teach.

**Required:**
US history (303-331) – no change.
History of the Holocaust (332-359) – no change.
African American history (360-396); some additions
Health education (406-448) – many revisions; not analyzed in this document.
Contributions of Hispanics (402)
Contributions of women (404);
Civic and character education (408-434; mostly deletions); not analyzed in this document.

Educators are required to use texts and materials “that meet the highest standards of professionalism and historical accuracy” (299-300).

Section (f) (echoing anti-CRT bill):
*American history shall be viewed as factual, not as constructed, shall be viewed as knowable, teachable, and testable, and shall be defined as the creation of a new nation based largely on the universal principles stated in the Declaration of Independence.* (327-331)

**Commentary:** Highlighted language is included the FL DOE ban on teaching CRT.
- The emphasis on “factual” justifies the use of historical documents, rather than textbook interpretations.
- Note the function of the term “largely”; this allows teachers to explore who was not included in the “universal” principles.

Section (g) Required to teach the history of the Holocaust in a manner that leads to:
“… an investigation of human behavior, an understanding of the ramifications of prejudice, racism, and stereotyping, and an examination of what it means to be a responsible and respectful person, for the purposes of encouraging tolerance of diversity in a pluralistic society and for nurturing and protecting democratic values and institutions…” (336-341)

**Commentary:** Agreed! Let’s do it!
This statement has also been added to the section on African American history (365-370).
Section (h) history of African Americans requires:

“…the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the contributions of African Americans to society. Instructional materials shall include the contributions of African Americans to American society.” (361-365)

Commentary: Despite endorsement of contributions of African American to American society, use of the 1619 project to do so is still banned.

** Note also the permissibility of the following (this is an addition):

Instructional personnel may facilitate discussions and use curricula to address, in an age-appropriate manner, how the freedoms of persons have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms has overturned these unjust laws. (381-389).

This is followed by the statement:

*However, classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view (389-391).*

Commentary:
- This expands the African American history mandate invites a specific discussion of laws in the perpetuation of racism.
- The language clarifies that showing how freedoms of people have been infringed by racial oppression does not constitute what the state construes as “indoctrination” or “persuasion” towards a point of view.
- Might this language make it possible to discuss the ban on CRT as a law and its impact on racial oppression?

Teaching implications
- We can/should integrate the listed topics into our lessons.
- Although there remains ambiguity about the “recognition” of freedoms (by whom? How?) it appears that the exploration of the processes by which unjust laws can be overturned is permissible.
- Just be cautious about not suggesting that racism is “embedded” in the law (interpreted by FL DOE as CRT, which they have banned) but we can show how the laws have resulted in racism and racial oppression.

ADDED content includes:

*Roles and contributions of individuals from all walks of life and their endeavors to learn and thrive throughout history as ….. [lists of professionals including political and government leaders] and the courageous steps they took to fulfill the promise of democracy and unite the nation. [371- 377].*
Commentary:
- Ironically, this is the focus of the 1619 project, but teachers may not use this as a text.
- However, it allows a wide range of contributions to be discussed. (e.g. Black women during Reconstruction)

Teaching implications:
- Many substantive discussions of Black history can be incorporated within this language. There should be no question about its permissibility.

Note the pledge of the DOE to “offer standards and curriculum for the instruction required” and that they may seek input from the Commissioner of Education’s African American History Task Force (393-396). The state pledges to develop curricular consisting of “Stories of Inspiration” that “enabled people to prosper even under the most difficult circumstances” (537-544).

Commentary:
- While the standards could be helpful, district curriculum content experts could begin the process of developing curriculum. There are multiple resources being made available for rich curriculum in African and African American history.
- Stories of inspiration could result in the ‘domestication’ of Black advocates. Focus should be maintained on original documents and speeches to avoid potential ‘whitewashing’ of history or the prescription of ‘scripted’ curriculum.

Additional comments:

26 – Focus on “individual freedoms”
Clarifying questions:
- Whose “individual” freedoms?
- In schools that are predominantly of color, would this mean that we need to focus on the individual freedoms of the students/families represented?
- How does the state recognize diversity among the “individuals” it serves?
- Given the multiplicity and contradictory nature of “individual” freedoms, might the notion of collective public good make sense as we move beyond potentially divisive outcomes towards consensus building consistent with the values of “e pluribus unum”?

98 – HB7 applies to K-20 public education.
This means that preK, graduate/doctoral education and continuing education are not impacted.

Social class is not in the bill. It does mean we can discuss this without worry about it being included in the ban.