

SUMMARY OF BERT V. DRUMMOND LAWSUIT AND KEY POINTS FOR OKLAHOMA K-12 TEACHERS AND STUDENTS

About the Case

In October 2021, a multiracial group of Oklahoma students, parents, and faculty filed a federal lawsuit challenging H.B. 1775. H.B. 1775 is a classroom censorship bill that severely restricts teaching about race and gender in Oklahoma public education. The law has two sections: the first applies to colleges and universities, and the second applies to K-12 schools.

When they filed the case, this group of students, parents, and faculty asked the district court for a temporary order against H.B. 1775, barring the State from enforcing the Act until the lawsuit is resolved. On June 14, 2024, Judge Charles Goodwin granted, in part, this request.

Judge Goodwin's decision prohibits enforcement of some provisions of H.B. 1775 and permits the state to continue to enforce others.

- It blocks any enforcement of H.B. 1775 in higher education classrooms and stops K-12 officials from enforcing H.B. 1775's most vague language, marked in red in the table below.
- Oklahoma is permitted to enforce the remaining provisions of H.B. 1775 in K-12 classrooms, marked in black in the table below. Judge Goodwin's interpretation of the enforceable provisions is not binding on the state.

This summary focuses only on the decision's impact on K-12 education.

Key Takeaways from the Ruling for K-12 Teachers:

- The court's temporary decision means that the State cannot enforce subsection (c) and (d) of H.B. 1775 against K-12 teachers or administrators.
- Teachers should be allowed to discuss issues related to racism and sexism in the course of their instruction.
- Teachers should refrain from endorsing any of H.B. 1775's other banned concepts.
- The Oklahoma Academic Standards should override H.B. 1775's banned concepts, such that teachers are expressly protected when teaching concepts that are included in or align with the standards.

What the Ruling Says About HB 1775:

Judge Goodwin's decision stopped the enforcement of some of H.B. 1775 most confusing provisions and clarified what K-12 teachers can still teach. Specifically, here is what Judge Goodwin had to say about each of the provisions in H.B. 1775:

What H.B. 1775 says:	What the Court did:
<p>No teacher, administrator or other employee of a school district, charter school or virtual charter school shall require or make part of a course the follow concepts:</p>	<p>The Court said that the use of the word “require” was vague within this sentence and said that the state cannot enforce it. Ruling at 15-16.</p> <p>The Court said that the use of the phrase “make part of a course” was not vague because the “the plain and ordinarily understood meaning of” this language “is to prohibit school personnel from directly endorsing, promoting, or inculcating any concept as a normative value.” Ruling at 15. Therefore, this sentence now means that school employees, like teachers, cannot “make part of a course” the eight concepts listed below (as limited by the Court’s explanations).</p>
<p>a. one race or sex is inherently superior to another race or sex,</p>	<p>The text of subsection (a) still allows “teaching about how mistaken beliefs about the superiority of one race or sex have existed in history, how such beliefs exist now, or how those beliefs have affected or currently affect the actions of people or institutions.” Ruling at 17.</p>
<p>b. an individual, by virtue of his or her race or sex, is inherently racist, sexist or oppressive, whether consciously or unconsciously.</p>	<p>The text of subsection (b) still allows “teaching that an action by a person or an institution is racist or sexist or results in undue oppression, or that inaction by a person or an institution in the face of racism or sexism is itself racist or sexist.” Ruling 17-18.</p>

*Currently enjoined and not enforceable

<p>c. an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex,</p>	<p>The Court found this language to be so vague that teachers could not be expected to know what they can and can't teach. Therefore, the Court stopped the State from enforcing this part of the law. Ruling 18-21.</p>
<p>d. members of one race or sex cannot and should not attempt to treat others without respect to race or sex,</p>	<p>The Court found this language to be so vague that teachers could not be expected to know what they can and can't teach. Therefore, the Court stopped the State from enforcing this part of the law. Ruling 18-21.</p>
<p>e. an individual's moral character is necessarily determined by his or her race or sex,</p>	<p>The text of subsection (e) still allows "teaching that a particular action by a person or institution—including a failure to recognize racism or sexism and to act to rectify it—is morally wrong." Ruling at 21.</p>
<p>f. an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex,</p>	<p>The text of subsection (f) still allows "teaching about historical or current events in which members of one race or sex acted criminally, maliciously, or discriminatorily toward members of another race or sex." It also allows "teaching that past actions of racism or sexism have resulted in present advantages for members of a certain race or sex or have resulted in present disadvantages for members of a certain race or sex." Ruling at 22.</p>

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<p>g. any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex, or</p>	<p>The text of subsection (g) still allows “teaching about historical or current events in which members of one race or sex acted criminally, maliciously, or discriminatorily—or that past actions of racism or sexism have resulted in present advantages or disadvantages for members of a certain race or sex.” Ruling at 22–23.</p> <p>The text of subsection (g) also allows “teaching of subjects involving race or sex merely because they might cause a student to feel discomfort or distress. Take as an example a student who is discomfited upon learning about a historical event in which persons of her race harmed persons of another race. That student’s reaction to the facts of the event would not, absent more, mean that a teacher impermissibly taught that the student “should feel discomfort . . . on account of . . . her race.” Any reaction by the student would instead be due to historical fact: e.g., the cruelty of the acts at issue and the harm that was experienced because of those acts. In other words, while a teacher may and should teach about events that make students uncomfortable, such coursework is distinct from teaching students that their race or sex should itself be a cause for discomfort or shame.” Ruling at 23.</p>
<p>h. meritocracy or traits such as hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race.</p>	<p>The court did not provide any further clarification about this section. He only said that the law was not vague. Ruling at 23–24.</p>

The Court also emphasized the importance of the ‘safe harbor’ provision in H.B. 1775 which says that “The provisions of this subsection shall not prohibit the teaching of concepts that align to the Oklahoma Academic Standards.” The Court interpreted this part of the law to mean that teachers are expressly protected when they are teaching topics that are specifically written in the Oklahoma Academic standards.

If you have any questions or are concerned about potential enforcement, you can reach out to us at intake@acluok.org

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