

**HOUSE . . . . . No. 459**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***David F. DeCoste, (BY REQUEST)***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to creating statutes relating to requiring school boards to make information about learning materials and educational activities used for pupil instruction available to the public.

PETITION OF:

NAME:

*Les Molyneaux*

DISTRICT/ADDRESS:

DATE ADDED:

*1/20/2023*

**HOUSE . . . . . No. 459**

By Representative DeCoste of Norwell (by request), a petition (accompanied by bill, House, No. 459) of Les Molyneaux relative to requiring school boards to make information about learning materials and educational activities used for pupil instruction available to the public. Education.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act relative to creating statutes relating to requiring school boards to make information about learning materials and educational activities used for pupil instruction available to the public.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           This bill requires each Municipal School Board or Public Charter School Board to  
2 prominently post on the home page of its Internet site information related to learning materials  
3 and educational activities used in pupil instruction in the school district and any procedure or  
4 policy in effect that applies to the documentation, review, or approval of such learning materials  
5 or educational activities. Under this bill, used in pupil instruction” means that a learning material  
6 or educational activity is 1) assigned, distributed, or otherwise presented to pupils in a course for  
7 which pupils receive credit, 2) assigned, distributed, or otherwise presented to pupils if use of the  
8 learning material or participation in the educational activity is required by the school, 3)  
9 assigned, distributed, or otherwise presented to pupils and at least a majority of pupils in a grade  
10 level are expected to use the learning material or participate in the educational activity, 4) among  
11 learning materials from which pupils are required to select one or more materials, if the available  
12 selection of learning materials is restricted to specific titles, or 5) created by the school board or a

13 teacher employed by the school board, including lesson plans, presentations, and videos. This  
14 bill requires each school board to include in its list of learning materials and educational  
15 activities 1) bibliographic information necessary to identify each listed learning material and  
16 educational activity, 2) the full text or a copy of a learning material or educational activity  
17 created by the school board or a teacher employed by the school board, and 3) a link to curricula  
18 adopted by the school board to comply with state law.

19 Under this bill, a school board must update the list of learning materials and educational  
20 activities at least twice each school year and must notify parents and guardians each time the list  
21 is updated. This bill specifies that one update must occur before the start of the school term and  
22 one update must occur before January 15 of the applicable school year. This bill also requires the  
23 school board to ensure that the list remains available to the public on its Internet site for at least  
24 five years.

## 25 SECTION 1. PURPOSES

26 The purposes of the EDUCATE OPENLY ACT are:

27 A. To ensure that schools provide transparency in the training and instructional materials  
28 used in pupil instruction to promote diversity, equity, and inclusion and to give parents and  
29 students ready access to review such materials.

30 B. To ensure that students, teachers, administrators, and other school employees  
31 recognize the equality, dignity, and rights of all persons and to discourage public schools from  
32 teaching ideas and concepts that are contrary to this aim.

33 C. To ensure that public schools do not compel students to engage in political or social  
34 activism or advocacy.

35 D. To prevent government entities and actors from compelling students, teachers,  
36 administrators, and other public school employees to affirm prescribed speech or beliefs.

## 37 SECTION 2: TRANSPARENCY IN TRAINING AND CURRICULUM

38 A. The governing body of a public school, including public charter schools, shall ensure  
39 that the following information is prominently displayed on the school website in an easily  
40 accessible location:

41 (1). All training materials used for staff and faculty training on all matters of  
42 nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, or any combination of  
43 these concepts with other concepts.

44 (2). All instructional or curricular materials principally concerning nondiscrimination,  
45 diversity, equity, inclusion, race, ethnicity, sex, or bias, or any combination of these concepts  
46 with other concepts. Such instructional materials shall identify, at a minimum:

47 i. The title, author, organization, and any website associated with each material and  
48 activity;

49 ii. A brief description of the instructional material;

50 iii. A link to the instructional material, if publicly available on the Internet, or  
51 information on how to request review of a copy of the instructional material; and

52 iv. The identity of the teacher, if the instructional material was created by the teacher.

53 (3) Any procedures for the documentation, review, or approval of the training,  
54 instructional, or curricular materials used for staff and faculty training or student instruction at  
55 the school, including by the principal, curriculum administrators, or other teachers.

56 (4) Nothing in this subsection shall be construed to require the digital reproduction or  
57 posting of copies of the instructional materials themselves, where such reproduction would  
58 infringe upon copyrighted material; but in such cases, original materials should still be linked, if  
59 possible, or provided upon request, as required under subsection (2)(iii) of this section.

60 B. The information required by subsection (A) of this section shall be displayed online  
61 prior to the first instance of training or instruction, or, at latest, seven days after the training or  
62 instruction. Such information shall remain displayed on the school website for at least two years.

63 C. A school whose governing board is responsible for the operation of schools with fewer  
64 than (10) students cumulatively is not required to post a list of learning materials and activities  
65 pursuant to this section.

66 D. The attorney general or the district or county attorney for the district or county in  
67 which an alleged violation of this section occurs may initiate a suit in the district or county court  
68 in the jurisdiction in which the school district, public school, public charter school, or other  
69 governmental entity responsible for the oversight of public secondary or elementary schools is  
70 located for the purpose of complying with this section. [The legislature can, in addition to  
71 injunctive relief, specify a fine or penalty according to state law.]

72 E. An attorney acting on behalf of a school district, public school, public charter school,  
73 or governmental entity responsible for the oversight of public secondary or elementary schools  
74 may request a legal opinion of the county or district attorney or the attorney general as to

75 whether a particular piece of training, instructional, or curricular material fits under this  
76 subsection.

77 SECTION 3: CONTROLLING STATE SCHOOL CURRICULUM, PROTECTING  
78 AGAINST COMPELLED SPEECH, AND PERMITTING INDIVIDUAL OPT-OUTS

79 A. No school district, public school, or governmental entity responsible for the oversight  
80 of public secondary or elementary schools, including public charter schools only with respect to  
81 subsection (A)(2) of this section, shall:

82 (1) Permit teachers or administrators to require or make part of a course or award a grade  
83 or course credit, including extra credit, for:

84 i. A student's political activism, lobbying, or efforts to persuade members of the  
85 legislative or executive branch at the federal, state, or local level to take specific actions by direct  
86 communication; or

87 ii. Participation in any internship, practicum, or similar activity involving social or  
88 public-policy advocacy.

89 (2) Direct or otherwise compel a teacher, administrator, or student personally to affirm,  
90 adopt, or adhere to any belief or concept that:  
91 i. The United States, the Commonwealth of  
92 Massachusetts or any other state or commonwealth within the United States is fundamentally or  
92 irredeemably racist or sexist;

93 ii. An individual, by virtue of sex, race, ethnicity, religion, color, or national origin, is  
94 inherently racist, sexist, or oppressive, whether consciously or unconsciously;

95           iii. An individual, by virtue of sex, race, ethnicity, religion, color, or national origin,  
96 should be blamed for actions committed in the past by other members of the same sex, race,  
97 ethnicity, religion, color, or national origin; or iv. An individual's moral character is necessarily  
98 determined, in whole or in part, by his or her sex, race, ethnicity, religion, color, or national  
99 origin.

100           (3) Use public funds to contract with, hire, or otherwise engage speakers, consultants,  
101 diversity trainers, and other persons:

102           i. To engage students, teachers, administrators, and other employees in activism or  
103 advocacy as described in subsection (A)(1) of this section;

104           ii. To direct or otherwise compel a teacher, administrator, or student personally to affirm,  
105 adopt, or adhere to any belief or concept described in subsection (A)(2) of this section; or

106           iii. To advocate concepts described in subsection (A)(2) of this section, unless:

107           a. The school expressly makes clear that it does not sponsor, approve, or endorse such  
108 concepts or materials; and,

109           b. The school affords students, teachers, administrators, and other employees the  
110 opportunity to opt out of any speeches by or sessions with such outside contractors, as specified  
111 under subsection (B) of this section.

112           B. No school district, public school, or governmental entity responsible for the oversight  
113 of public secondary or elementary schools may require a student, teacher, administrator, or other  
114 employee of a school district, or public school to attend or participate in a training, seminar,

115 continuing education, orientation, or therapy that promotes any concept described in subsection  
116 (A)(2) of this section or any combination of these concepts.

117 Public charter schools are excluded from this subsection, except as otherwise constrained  
118 by subsection (A)(2).

119 C. Nothing in this section shall be construed as prohibiting:

120 (1) Speech protected by the First Amendment of the U.S. Constitution or [Art. # of the  
121 State Constitution];

122 (2) Voluntary attendance in a training session, seminar, continuing education, orientation,  
123 or therapy, provided that no inducement or coercion for such attendance exists;

124 (3) Access to sources on an individual basis that advocate concepts described in  
125 subsection (A)(2) of this section for the purpose of research or independent study; or

126 (4) Discussion of concepts described in subsection (A)(2) of this section or the  
127 assignment of materials that incorporate such concepts for educational purposes, provided that  
128 the public school expressly makes clear that it does not sponsor, approve, or endorse such  
129 concepts or materials.

130 D. The attorney general or the district or county attorney for the district or county in  
131 which an alleged violation of this section occurs may initiate a suit in the district or county court  
132 in the jurisdiction in which the school district, public school, public charter school, or  
133 governmental entity responsible for the oversight of public secondary or elementary schools is  
134 located for the purpose of complying with this section.

135           E. An attorney acting on behalf of a school district, public school, public charter school,  
136 or governmental entity responsible for the oversight of public secondary or elementary schools  
137 may request a legal opinion of the county or district attorney or the attorney general as to  
138 whether a proposed use of school resources would violate this section.

139           SECTION 4: ENFORCEMENT

140           A. This bill allows a school district resident to bring an action in the appropriate court to  
141 compel a school board to comply with the requirements created in this bill.

142           Under this bill, the court must award reasonable attorneys fees, up to \$15,000, to the  
143 school district resident if he or she prevails in the action.

144           SECTION 5: SEVERABILITY

145           A. The provisions of this act are hereby declared to be severable. If any provision of this  
146 act or the application of such provision to any person or circumstance is declared or held to be  
147 invalid for any reason, such declaration or holding shall not affect the validity of the remaining  
148 portions of this act and the application of its provisions to any other persons or circumstances.