

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BLACK EMERGENCY RESPONSE)	
TEAM et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-21-1022-G
)	
GENTNER DRUMMOND, in his official)	
capacity as Oklahoma Attorney)	
General, et al.,)	
)	
Defendants.)	

ORDER

Oral argument in this action regarding H.B. 1775, codified in title 70, section 24-157 of the Oklahoma Statutes (“the Act”), is scheduled for Monday, December 4, 2023, at 10:00 a.m. in Courtroom 305 of the William J. Holloway, Jr. United States Courthouse. In preparation for oral argument, the Court ADVISES counsel to be prepared to address the following issues. The Court may decide to ask additional questions.

1. Discuss the applicable standard for evaluating Plaintiffs’ facial vagueness, viewpoint discrimination, and information rights claims.
2. Section 1(A) of the Act prohibits “[a]ny orientation or requirement that presents” race or sex stereotyping or bias. What does “requirement” mean in this context? What does “presents” mean in this context?
3. Suppose the words “or requirement” were excised from Section 1(A) of the Act. Would university-affiliated Plaintiffs still have standing to challenge Section 1(A)?
4. Section 1(B) of the Act provides that no “employee of a school district...shall require or make part of a course” eight forbidden concepts. What does “require or make part of a course” mean in this context?
5. Section 1(B) of the Act provides that the provisions of the Act applicable to K-12 schools “shall not prohibit the teaching of concepts that align to the Oklahoma

Academic Standards.” Does this safe harbor cure Plaintiffs’ overbreadth and vagueness concerns?

6. Okla. Admin. Code 210-1-23(j)(2) provides that a teacher license may only be revoked for a “willful violation” of the Act. Does this scienter requirement cure Plaintiffs’ vagueness concern? If so, what about section (j)(1), which deals with suspensions of teacher licenses and has no such scienter component?
7. Could the Court enjoin enforcement of some but not all of the Act? If so, which subsections or particular language is most objectionable to Plaintiffs?
8. Does this Court have the power to adopt a narrowing construction to Section 1(A) and/or Section 1(B) of the Act? Explain the appropriate standard and, if a narrowing construction is possible, what should it be?
9. Should the Court certify the allegedly vague sections of the Act to the Oklahoma Supreme Court to see if it renders a narrowing construction?

DATED this 1st day of December, 2023.



CHARLES B. GOODWIN
United States District Judge