

EXECUTIVE ORDER 2022-02
Report from the Department of Education
June 28, 2022

EXECUTIVE SUMMARY

On April 5, 2022, Gov. Kristi Noem issued Executive Order 2022-02 (EO). The order directed the Department of Education (DOE) to conduct a review of its policies, guidance, websites, trainings, content standards, and other materials to determine if any of these items promote inherently divisive concepts. It further stated that for regulations and services related to accredited K-12 schools, the department shall not direct or compel employees, students, teachers, or school district employees to personally affirm, adopt, or adhere to inherently divisive concepts.

It is important to note that this report pertains to DOE’s policies, materials, and resources and does not extend to the policies, materials, and resources of local schools.

The department is committed to ensuring that all students have educational opportunities that prepare them for college, careers, and life. In alignment with Executive Order 2022-02, the agency operates with the understanding that each South Dakota student is unique, deserves to be treated with dignity and respect, and should not be subject to discrimination.

Earlier this year, DOE started planning for a thorough review of its communications with stakeholders – to make certain that any information being shared is timely and pertinent; is in accordance with the agency’s roles and responsibilities; offers value to its audience; and is presented in a consistent voice and style. DOE used the opportunity presented by the EO to expand this review.

FINDINGS

1. Existing policies, resources, and other materials reviewed were largely in line with the EO – meaning they pave the way for an education that allows for a diversity of ideas and perspectives, empowers students to think for themselves, equips students with knowledge to understand the world around them, and is free from bias.
2. Out of the thousands of items reviewed, a very small number were deemed to be out of alignment with the EO. The department is taking action to modify or discontinue them.
3. Several areas were identified where processes could be bolstered to either ensure clarity in DOE operations or consistency in vetting resources for its programs and services.
4. Numerous additional items, unrelated to the EO, were found to be outdated and/or no longer relevant. These items are being removed from circulation or archived.

GENERAL NOTES

- DOE will use clear, descriptive language in describing its initiatives and resources, avoiding educational jargon and terms that may have conflicting definitions.
- DOE will carefully vet any references or links to resources, materials, and websites other than those of the agency, other state agencies, its official partners, or the federal government.
- Many areas reviewed required no action to align with the EO. Those areas are not detailed in this document.

ACTION AREAS

Assessment & Accountability

- To accurately reflect the contents of the report, DOE will change the name of “School and Educator Equity Report” in the annual Report Card to “Rates of Access to Qualified Teachers.”

Content Standards

- DOE will propose changes to two content standards identified as misaligned with the EO. These will be addressed through the content standards revision process, according to the established schedule.
- DOE will modify the available implementation resources related to content standards as necessary.
- DOE is working with the Board of Education Standards to promulgate rules that prohibit the adoption of content standards that promote inherently divisive concepts for the board’s consideration this summer.

Educator Certification

- DOE will modify its process for the review of continuing education contact hours and their application to educators’ certificate renewals.

Educator Preparation

- DOE will revise certain program approval evaluation tools.
- DOE will engage the Board of Regents, tribal, and private colleges’ educator preparation programs to review course syllabi and materials.
- DOE will revise strand #1 (Language and Cultural Awareness) in the required South Dakota Indian Studies course.

Legal

- DOE will propose changes to SDCL 13-3-51 and ARSD 24:43:08:02 and 24:43:08:06.
- DOE will insert a clause in contracts with outside vendors, so these entities are aware of and adhere to the tenets outlined in the EO for work they perform for the department.

Student Supports

- DOE will continue modifying documents and resources to align with the EO.

Training and Professional Development

- DOE will develop guidance for staff members and contractors to use in selecting training topics and presenters, building professional development, and vetting any resources.
- DOE will modify trainings and their associated resources that do not align with the EO.

Virtual School

- DOE will add a component to the course approval process in which the provider assures that content aligns with the EO.

K-12 BACKGROUND

While the Department of Education encompasses divisions that serve constituents beyond the K-12 community, Executive Order 2022-02 focused on the area of K-12 schools and all connected regulations and services.

At the state level, the South Dakota Legislature has given the Board of Education Standards, in conjunction with the Department of Education, the authority to accredit schools, certify educators, establish academic content standards, set minimum graduation requirements, maintain a school accountability system, establish standards for teacher preparation programs, and certain other functions.

Simply stated, the state provides guardrails within which local school districts operate.

Local school boards and administrators are charged with the day-to-day planning and operations of a school district, including decisions about budgets, facilities, and personnel. **Decisions about curriculum and instructional methods, including the choice of textbooks, materials, and teaching approaches, are also made at the local level.**

DOE is also charged with overseeing certain federal education programs in South Dakota (e.g., Title I, Perkins, Special Education). These federal programs often require states and local school districts to collect and review student data based on subgroups (e.g., economically disadvantaged students, students learning the English language, students with disabilities). This data is used to help both state and local decision makers understand how all students are performing, and if there are gaps in performance, where programming can be targeted to address those needs. Similar to HB 1012, passed during the 2022 legislative session, nothing in the EO prohibits the required collection or reporting of this data.

In many areas, DOE collaborates with other state agencies to carry out its functions and responsibilities. For example, the Board of Education Standards approves the Oceti Sakowin Essential Understandings and Standards, while the Department of Tribal Relations provides related professional development and instructional materials. For educator preparation program approval, DOE provides the components for state accreditation, while the universities – public, private, and tribal – make decisions about how to implement the components. Related to educator certification, DOE approves continuing education contact hours, while higher education institutions provide transcribed credits. DOE also partners with the Departments of Social Services, Health, and Public Safety on support and training efforts related to student safety, mental, and behavioral health.

Within its lanes of authority, the Department of Education and Board of Education Standards can impact K-12 school districts through development and implementation of policy aimed at promoting opportunity for all students in an atmosphere free of discrimination and divisiveness.

EXECUTIVE ORDER 2022-02 REVIEW PROCESS

To meet the requirements of Executive Order 2022-02, staff members across the department conducted a comprehensive review. Items reviewed included the following: state law and administrative rules, policies, content standards, communication practices, professional development and training, technical assistance and guidance materials, and websites.

Efforts began in mid-April, continued through June, and involved hundreds of hours of staff time. This intensive process has given the department the opportunity to develop clarity on its roles and responsibilities, ensure more consistency in how the agency vets partners and materials, and make adjustments where needed to ensure the agency's work is done appropriately and well.

EXECUTIVE ORDER 2022-02 REVIEW RESULTS

The areas identified below include only those sections requiring action by DOE; they do not represent all of the areas reviewed. Some areas reviewed that require no action include:

- K-12 School Accreditation
- Data and Research
- Finance and Management
- Graduation Requirements

Assessment and Accountability By federal law, South Dakota is required to assess students at certain grade levels in English language arts, math, and science annually. The results of these assessments, along with other required educational data, are published each year in the South Dakota Report Card located at <https://sdschools.sd.gov>. As part of its review, DOE consulted with its vendors to ensure state assessments are free from bias and divisive concepts. Assessment vendors provided assurances to that affect.

Federal law also requires states to report disproportionate rates of access to qualified teachers for low-income and minority students served by Title I schools, as compared to all schools in the state. Currently, this report is housed within the Report Card and is titled "School and Educator Equity Report."

Action:

- Change name of "School and Educator Equity Report" in the annual Report Card to "Rates of Access to Qualified Teachers," which more accurately describes the content of the report.

Content Standards DOE, in conjunction with the Board of Education Standards, establishes South Dakota's academic content standards. Content standards provide the expectations for what students should know and be able to do in each subject area. These learning expectations pave the way for students who leave the K-12 system college, career, and life ready.

In reviewing the state's academic content standards, the department identified two standards in Introduction to Law and Public Safety II, an advanced career and technical education course, that are potentially problematic. The standards align with postsecondary and industry expectations for law enforcement training; however, they may be taught in a way that does not align with the EO. Although courses in the Law and Public Safety career cluster are not frequently taught at the K-12 level and no school district is currently offering the course, clarifications are in order. Per the EO, these will be addressed during the regular standards revision cycle.

From *Law and Public Safety II*, a career and technical education course:

Level 4: Extended Thinking	LPS-II 4.4 Analyze differences in power and privilege related to people of culturally diverse backgrounds, beliefs, and practices.
Level 4: Extended Thinking	LPS-II 4.5 Analyze issues of cultural assimilation and cultural preservation among ethnic and racial groups in South Dakota and the United States.

In some content areas (e.g., Physical Education), the standards documents include recommended resources or links to outside groups. In future revisions, the standards documents will remove these accessory items or vet them to ensure that they align with the EO.

In reviewing the content standards, staff also reviewed what are referred to as “disaggregated” or “unpacked” standards. These are resources that are *optional* and *supplemental* to the content standards. They exist to help teachers implement the standards and include possible student activities. Within these unpacked standards documents, staff identified certain descriptions that are not clear or suggested activities that could potentially be taught in a way that violates the EO. For example, one potential civic engagement activity related to the high school social studies standards adopted in 2015 is “circulate a petition, organize a rally, champion a boycott.” These resource documents are being revised to ensure alignment with the EO.

The Oceti Sakowin Essential Understandings and Standards (OSEUS) pose a unique situation. In 2007, the Legislature passed [HB 1290](#), which paved the way for the OSEUS to be developed. In 2008, a group of educators and experts in tribal culture, history, and language, including tribal elders, started the work of identifying core concepts considered essential to the understanding and teaching of Oceti Sakowin history and culture. That work has developed over the course of years. A few of the suggested approaches to instruction embedded into the standards may not align with the EO. For example, one suggested activity is “simulate assimilation experiences, including: conversion of groups to individualism.” Due to the unique nature of these standards, the department recommends a review by experts and stakeholders beyond DOE staff. The OSEUS are slated for public hearings in 2024-25.

The EO directs the Board of Education Standards to promulgate rules to prohibit the adoption of content standards that promote inherently divisive concepts, or which direct or compel students or educators to personally affirm, adopt, or adhere to inherently divisive concepts. The department expects to bring these proposed rules to the Board of Education Standards for a first reading in July 2022, with a public hearing tentatively planned for August.

Actions:

- DOE will propose changes to two content standards identified as misaligned with the EO. These will be addressed through the content standards revision process, according to the established schedule.
- DOE will modify the available implementation resources related to content standards as necessary.

- DOE is working with the Board of Education Standards to promulgate rules that prohibit the adoption of content standards that promote inherently divisive concepts for the board's consideration this summer.

Educator Certification The department is responsible for certifying the educators (teachers, administrators, and education specialists) who serve South Dakota's K-12 students. The aim of this process is to ensure that all students have access to qualified and ethical educators. The policies related to certification were deemed to be in line with the EO.

One of the associated processes – the review of continuing education contact hours for re-certification – was identified as an area for change. The department currently uses a decision tree to determine whether a specific training can count towards the hours required to maintain a valid certificate in South Dakota. DOE will add a component to its review process. Reviewers will assess the training to ensure its alignment with the EO.

Action:

- Modify process for review of continuing education contact hours and their application to educators' certificate renewals.

Educator Preparation While DOE is responsible for approving educator preparation programs in South Dakota, the programs are run by institutions of higher education. DOE has reviewed the evaluation tools used during the approval process and is revising potentially divisive language.

Thus far, the University of South Dakota has reviewed their syllabi and course materials in their educator preparation programs; the progress of other regental institutions is unknown. DOE will engage the Board of Regents, private colleges, and tribal colleges, encouraging them to undertake a similar review to ensure alignment with the EO.

South Dakota state law (SDCL 13-1-48) requires educators to complete a 3-credit-hour course in South Dakota Indian Studies. In concert with stakeholders, DOE provided the strands (major topics of study) for this course several years ago. Individual institutions then built courses around those strands. A review of the strands found that the major ideas they contained are aligned with the EO; however, some of the descriptive language is not. DOE will revise the language in strand #1 (Language and Cultural Awareness) and ask educator preparation programs to review their courses, and associated materials, based on that change.

From South Dakota Indian Studies Strand #1:

Language and Cultural Awareness:

1. Establish a fundamental awareness of cultural dynamics ~~such as race and gender bias, stereotyping, assumptions, etc.~~

Actions:

- Revise certain program approval evaluation tools.
- Engage the Board of Regents, tribal, and private colleges' educator preparation programs to review course syllabi and materials.
- Revise strand #1 (Language and Cultural Awareness) in the required South Dakota Indian Studies course.

Legal Counsel reviewed all education-related statutes and administrative rules and found three items to be addressed. SDCL 13-3-51 pertains to data collection and references “educational equity of the school district.” DOE will draft a bill for the 2023 legislative session to eliminate the reference, since the phrase “educational equity of the school district” is unclear and preceding language in the statute provides DOE authority to collect required data.

Administrative Rules 24:43:08:02 and 24:43:08:06 pertain to school district waivers from certain administrative rules. Both reference “promote equity” as a reason a district could request a waiver. Since the concept of promoting equity may be construed as divisive, and because the waiver outlines clearer reasons for requesting a waiver (e.g., enhance educational opportunity), DOE is pursuing appropriate rule changes.

A review of the department’s contracting process provided an opportunity to ensure that third party entities providing services on behalf of DOE understand and adhere to the tenants outlined in the EO for work performed on behalf of the department. DOE has started inserting new language into contracts with outside vendors.

Actions:

- Propose changes to SDCL 13-3-51 and ARSD 24:43:08:02 and 24:43:08:06.
- Insert a clause in contracts with outside vendors, so these entities are aware of and adhere to the tenants outlined in the EO for work they perform for the department.

Student Supports DOE's work in this area supports the individual needs of all students by providing assistance and resources for them to learn, thrive, and grow. Because the professional expertise in this area often lies outside DOE, strong partnerships exist with other entities such the Department of Social Services, community mental health centers, and the Center for the Prevention of Child Maltreatment at the University of South Dakota.

The trainings and resources DOE provides comply with the order; some past content produced by non-profits and outside service providers may not have. For example, a document for school counselors referenced Teaching Tolerance, an entity that is not an official DOE partner. DOE is modifying documents and resources to eliminate terms and content as necessary.

Action:

- Continue modifying documents and resources to align with the EO.

Training and Professional Development DOE offers training and professional development opportunities to educators and school staff. These range from technical trainings on how to use data reporting systems to professional development for teachers focused on specific content (e.g., English language arts, math, competency-based learning, interim assessments, serving students with disabilities). In conducting its review of training and associated materials, DOE found outdated and irrelevant resources for a number of trainings. DOE also found reading and viewing materials within certain trainings that are not aligned with the EO.

Actions:

- Develop guidance for staff members and contractors to use in selecting training topics and presenters, building professional development, and vetting any resources.

- Modify trainings and their associated resources that do not align with the EO.

Virtual School The department oversees the South Dakota Center for Virtual Education, a clearinghouse of distance learning courses available to students across the state. DOE's role is to approve course providers and the courses offered. Providers must ensure that courses align to the state's academic content standards and are taught by certified educators. Due to the significant number of courses available (approximately 1,500), DOE will review the courses on an ongoing basis.

Action:

- Add a component to the course approval process in which the provider assures that content aligns with the EO.

Miscellaneous Technical assistance documents, websites, and other materials were thoroughly reviewed in this process. DOE discovered numerous outdated resources or resources that don't align with DOE roles and responsibilities. For example, the State Library was hosting the landing page for the South Dakota Library Association's annual children's book awards. That task will go back to the association.

Actions:

- Remove outdated or unaligned resources from websites and other circulation.
- Thoroughly vet, and limit links to, resources, materials, and websites other than those of DOE's or its official partners.

CONCLUSION

As directed by Executive Order 2022-02, the Department of Education has engaged in a thorough review of its policies, guidance, websites, trainings, content standards, and other materials to determine if any of these promote inherently divisive concepts and/or compel employees, students, teachers, or school district employees to personally affirm, adopt, or adhere to inherently divisive concepts. This report summarizes the results of that review and has been submitted in accordance with the July 1, 2022, deadline. Following the report's publishing, DOE will focus its efforts on taking the actions identified in this report by the October 1, 2022, deadline.