



OFFICE OF THE SECRETARY

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SECRETARIAL DIRECTIVE

SUBJECT: Divisive Concepts in Department Operations, Policies, and Training Materials

NUMBER: SD 2022-14

SUPERSEDES: SD 2022-09

APPLICABILITY: All Department of Corrections Employees

REFERENCE: A.C.A. § 25-1-901 et seq., 25-43-105, 25-43-108, 25-43-403; OPM Rule Governing the Unlawful Propagation of Divisive Concept Training

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APPROVED: Original signature on file

EFFECTIVE DATE: 11/2/2022

I. POLICY

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department. Consistent with state law, divisive concepts shall not be taught, instructed, or included in training for any Department employee, contractor, staff member, or any other associates of the Department.

II. PROCEDURES

A. General Procedures

1. All administrative rules, secretarial directives, administrative directives, facility or unit level policies, operational policies, and any additional policies utilized to promote the operations of the Department shall be reviewed annually to ensure the policies established by the Department are in compliance with the requirements set forth in A.C.A. § 25-1-901 et seq.
2. Pursuant to A.C.A. § 25-1-901 and as used in this policy, the definitions of divisive concept, race or sex scapegoating, and state entity can be found in Attachment #2.
3. All training materials, developed by the Department or a third-party, and utilized by the Department for the advancement of employee performance through a Department training academy shall be screened by the Central Human Resources Administrator or their designee. Screening of training materials shall be conducted prior to their use during training courses to ensure compliance with provisions established in applicable state law and this policy. Applicable training at the unit or area office level will be reviewed by the Division Director or their designee.
 - a. Any training material that is found to be out of compliance with Department policy and state law will be immediately removed from the training course offerings.
 - b. Pursuant to A.C.A. § 25-1-901, CLEST training materials are not subject to these provisions.

4. All third-party contractors shall be made aware of this policy and the prohibitions set out in state law prior to approval of training and training materials. Third-party contractors will be required to sign a Certification of Exclusion of Divisive Concepts form (Attachment #1) prior to the beginning of any contracted agreement. A Department legal representative will also sign the agreement to be retained with a copy of the original contract.
5. Department entities using or providing grant funding for programs, training, or operational activities must review this directive and certify that such state funding or assets will not be used to promote divisive concepts.

B. Reporting and Documenting Findings

1. An internal review of policies, procedures, and training materials shall be conducted annually to determine compliance with this directive. This review shall be conducted in conjunction with annual policy reviews.
2. Annual written reports must be submitted to the Office of the Secretary no later than November 30th of each calendar year, unless an extension has been granted in writing by the Secretary.
3. The Office of the Secretary shall review and assess the findings of the review and submit a report to the Department of Transformation and Shared Services (TSS) no later than December 31 of each calendar year. Reporting by the Secretary will follow the format developed by TSS and shall detail the Department's findings regarding compliance with this directive and state law.
4. The Secretary or designee must retain all documentation related to the internal review and report submitted to TSS and any documentation certifying that the Department is in compliance with this policy and state law.

III. ATTACHMENTS

Attachment 1. Certification of Exclusion of Divisive Concepts

Attachment 2. A.C.A. § 25-1-901 Definitions



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Exclusion of Divisive Concepts Agreement

I certify that I have received and read the Secretarial Directive on Divisive Concepts in Department Operations, Policies, and Training Materials and Act 1100 of 2021 *An Act to Prohibit the Propagation of Divisive Concepts; To Review State Entity Training Materials; And For Other Purposes*, codified as A.C.A. § 25-1-901 et seq. I agree to comply with the terms and conditions outlined in the Department policy and state law regarding the propagation of divisive concepts. I understand that my signature on this certification is a binding agreement with the Department of Corrections to be in compliance with Department policy and state law, and any violation of such may result in penalties being imposed upon me.

_____	_____	_____
Name	Organization	Date
_____		_____
Department Chief Legal Counsel or Designee		Date

A.C.A. § 25-1-901. Definitions. [Effective January 1, 2022.]

- (1) (A) “Divisive concept” means the concept that:
- (i) One race or sex is inherently superior to another race or sex;
 - (ii) The State of Arkansas or the United States is fundamentally racist or sexist;
 - (iii) An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 - (iv) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
 - (v) An individual's moral character is necessarily determined by his or her race or sex;
 - (vi) 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;
 - (vii) Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or
 - (viii) Meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.
- (B) The term “divisive concept” includes any other form of race or sex stereotyping or any other form of race or sex scapegoating;
- (2) (A) “Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.
- (B) “Race or sex scapegoating” encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others;
- (3) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex;
- (4) (A) “State entity” means an instrumentality of state government, including:
- (i) The Department of Agriculture;
 - (ii) The Department of Commerce;
 - (iii) The Department of Corrections;
 - (iv) The Department of Education;
 - (v) The Department of Energy and Environment;
 - (vi) The Department of Finance and Administration;
 - (vii) The Department of Health;
 - (viii) The Department of Human Services;
 - (ix) The Department of Inspector General;
 - (x) The Department of Labor and Licensing;
 - (xi) The Department of the Military;
 - (xii) The Department of Parks, Heritage, and Tourism;
 - (xiii) The Department of Public Safety;
 - (xiv) The Department of Transformation and Shared Services; and
 - (xv) The Department of Veterans Affairs.
- (B) “State entity” does not include:
- (i) Political subdivisions of the state;
 - (ii) Public schools;
 - (iii) Charter schools;
 - (iv) Institutions of higher education;
 - (v) The offices of constitutional officers; or
 - (vi) Law enforcement training certified by the Arkansas Commission on Law Enforcement Standards and Training.