

By: Tepper

H.B. No. 3164

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition of diversity, equity, and inclusion
offices and employees at public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter 2, Chapter 51, Education Code, is
amended by adding Section 51.9317 to read as follows:

Sec. 51.9317. DIVERSITY, EQUITY, AND INCLUSION OFFICES AND
EMPLOYEES PROHIBITED. (a) In this section:

(1) "Diversity, equity, and inclusion office" means an
office, center, department, division, or other unit of an
institution of higher education established for the purpose of:

(A) influencing the composition of the faculty or
student body of the institution with respect to race, sex, color, or
ethnicity, other than through the use of color-blind and
sex-neutral admissions and hiring processes in accordance with any
applicable state and federal antidiscrimination laws;

(B) promoting differential treatment of or
providing special benefits to individuals on the basis of race,
color, or ethnicity;

(C) promoting policies or procedures designed or
implemented in reference to race, color, or ethnicity;

(D) conducting trainings, programs, or
activities designed or implemented in reference to race, color,
ethnicity, gender identity, or sexual orientation; or

1 (E) promoting a particular, widely contested
2 opinion regarding unconscious or implicit bias, cultural
3 appropriation, allyship, transgender ideology, microaggressions,
4 group marginalization, antiracism, systemic oppression, social
5 justice, intersectionality, neo-pronouns, heteronormativity,
6 disparate impact, gender theory, racial or sexual privilege, or
7 other closely related concepts.

8 (2) "Institution of higher education" has the meaning
9 assigned by Section 61.003.

10 (b) An institution of higher education may not establish or
11 maintain a diversity, equity, and inclusion office or hire or
12 assign an employee of the institution, or contract with a third
13 party, to perform the duties of a diversity, equity, and inclusion
14 office.

15 (c) Subsection (b) may not be construed to:

16 (1) restrict:

17 (A) an institution of higher education's
18 academic course instruction or research;

19 (B) the activities of student organizations
20 registered with or recognized by an institution of higher
21 education;

22 (C) the guest speakers or performers who may be
23 invited to speak or perform at an institution of higher education;

24 or

25 (D) physical or mental health services an
26 institution of higher education may provide to students, faculty,
27 or staff; or

1 (2) prohibit an institution of higher education from:

2 (A) establishing or maintaining a legal office or
3 other unit, hiring or assigning an employee who is an attorney, or
4 contracting with a third-party attorney or law firm to ensure the
5 institution's compliance with:

6 (i) Title IX of the Education Amendments of
7 1972 (20 U.S.C. Section 1681 et seq.);

8 (ii) the Americans with Disabilities Act of
9 1990 (42 U.S.C. Section 12101 et seq.);

10 (iii) the Age Discrimination in Employment
11 Act of 1967 (29 U.S.C. Section 621 et seq.);

12 (iv) Title VI of the Civil Rights Act of
13 1964 (42 U.S.C. Section 2000d et seq.);

14 (v) any applicable court order; or

15 (vi) other applicable state or federal law;

16 or

17 (B) establishing or maintaining:

18 (i) an academic department or other unit
19 whose primary purpose is to offer courses for credit toward a degree
20 or certificate program and that does not establish policy or
21 procedures for other departments or units; or

22 (ii) an office or other unit whose sole duty
23 is the recruitment of prospective students.

24 (d) Nothing in this section may be construed as prohibiting
25 bona fide qualifications based on sex that are reasonably necessary
26 to the normal operation of an institution of higher education.

27 (e) If an institution of higher education fails to comply

1 with this section, the attorney general may file suit for a writ of
2 mandamus compelling the institution to comply with this section.

3 (f) A student or faculty member of an institution of higher
4 education who is adversely affected by the institution's violation
5 of this section may bring an action against the institution for
6 injunctive relief, court costs, and reasonable attorney's fees.

7 (g) In addition to the venue provided under Section
8 15.002(a), Civil Practice and Remedies Code, an action under
9 Subsection (f) may be brought in a county contiguous to the county
10 in which all or a substantial part of the events or omissions giving
11 rise to the claim occurred.

12 (h) Sovereign or governmental immunity of an institution of
13 higher education to suit is waived and abolished to the extent of
14 liability created by this section.

15 SECTION 2. Section 51.9317, Education Code, as added by
16 this Act, applies beginning with the 2023-2024 academic year.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2023.