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**STATUS INFORMATION**

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Summary: Higher Education Integrity in Learning and Employment Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 6/14/2023 Senate Introduced and read first time (Senate Journal‑page 9)

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**VERSIONS OF THIS BILL**

[06/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/833_20230614.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59‑101‑440 SO AS TO PROHIBIT CERTAIN CONCEPTS IN A COURSE OF INSTRUCTION, CURRICULUM, ASSIGNMENT, INSTRUCTIONAL PROGRAM, INSTRUCTIONAL MATERIAL, SURVEYS OR QUESTIONNAIRES, PRESENTATIONS, PERFORMANCES, SCHOOL POLICIES AND PROTOCOLS OR PROFESSIONAL EDUCATOR DEVELOPMENT OR TRAINING IN HIGHER EDUCATION; AND TO REQUIRE THE BOARD OF TRUSTEES FOR EACH COLLEGE AND UNIVERSITY TO IMPLEMENT POLICIES TO ENSURE COMPLIANCE; BY ADDING SECTION 59‑101‑450 SO AS TO ESTABLISH WHAT CONSTITUTES DISCRIMINATION IN CERTAIN SETTINGS; BY ADDING SECTION 59‑101‑460 SO AS TO ESTABLISH CERTAIN DEFINITIONS AND TO FURTHER PROHIBIT ADMISSION AND EMPLOYMENT DECISIONS BY A PUBLIC INSTITUTION OF HIGHER LEARNING CONDITIONED UPON SUPOORT OR DISAGREEMENT WITH ANY POLITICAL IDEOLOGY OR MOVEMENT; AND BY ADDING SECTION 59‑101‑470 SO AS TO PROVIDE THAT THIS ARTICLE DOES NOT UNDULY BURDEN A PERSON’S STATE AND FEDERAL CONSTITUTIONAL RIGHTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 101, Title 59 of the S.C. Code is amended by adding:

 Article 3

 Higher Education Integrity in Learning and Employment Act

 Section 59‑101‑440. (A) The following prohibited concepts may not be included or promoted in a course of instruction, curriculum, assignment, instructional program, instructional material (including primary or supplemental materials, whether in print, digital, or online), surveys or questionnaires, presentations, performances, school policies and protocols or professional educator development or training, nor may a student, employee, or volunteer be compelled to affirm, accept, adopt, or adhere to such prohibited concepts:

 (1) members of one race, sex, ethnicity, color, or national origin are inherently superior to members of another race, sex, ethnicity, color, or national origin;

 (2) an individual, by virtue of the race, sex, ethnicity, religion, color, or national origin of the individual, is inherently privileged, racist, sexist, contributive to any oppression, or oppressive, whether consciously or subconsciously;

 (3) an individual should be discriminated against or receive adverse or favorable treatment because of the race, sex, ethnicity, religion, color, or national origin of the individual;

 (4) the moral character of an individual is determined by the race, sex, ethnicity, religion, color, or national origin of the individual;

 (5) an individual, by virtue of the race, sex, ethnicity, religion, color, or national origin of the individual, bears responsibility for actions committed in the past by other members of the same race, sex, ethnicity, religion, color, or national origin;

 (6) meritocracy or traits such as a hard work ethic:

 (a) are racist, sexist, belong to the principles of one religion; or

 (b) were created by members of a particular race, sex, or religion to oppress members of another race, sex, ethnicity, color, national origin, or religion; and

 (7) fault, blame, or bias should be assigned to members of a race, sex, ethnicity, religion, color, or national origin because of their race, sex, ethnicity, religion, color, or national origin.

 (B) Instructional personnel may facilitate discussions and use curricula to address how the freedoms of persons have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination.

 (C) Nothing in this section prohibits concepts as part of a course of instruction, in a curriculum or instructional program, or through the use of supplemental instructional materials if these concepts involve:

 (1) the fact‑based history of an ethnic group;

 (2) the fact‑based discussion of controversial aspects of history or current events;

 (3) the fact‑based instruction on the historical oppression of a particular group of people based on race, sex, ethnicity, class, nationality, religion, or geographic region;

 (4) the fact‑based and historically accurate discussion of the history of slavery; or

 (5) the fact‑based and historically accurate discussion of Reconstruction, the Jim Crow era, and segregation with an emphasis on lynchings and other crimes committed based upon the race of the victim.

  However, instruction and curricula may not be used to indoctrinate or persuade students to any particular point of view inconsistent with the principles of this section.

 (D) The Commission on Higher Education shall assist the colleges and universities in identifying the most appropriate means for integrating these requirements into existing curriculums.

 (E) The board of trustees for each college and university shall implement policies to ensure compliance with the provisions of this article.

SECTION 2. Chapter 101, Title 59 of the S.C. Code is amended by adding:

 Section 59‑101‑450. It shall constitute discrimination on the basis of race, color, national origin, or sex under this section to subject any student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe any of the prohibited concepts in 59‑101‑440(A). This section shall not be construed to prohibit discussion of these concepts as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

SECTION 3. Chapter 101, Title 59 of the S.C. Code is amended by adding:

 Section 59‑101‑460. (A) For purposes of this article:

 (1) “Public institution of higher learning” means any state‑supported, post‑secondary educational institution and includes technical and comprehensive educational institutions;

 (2) “Diversity, equity, and inclusion” or “DEI” includes:

 (a) any effort by a public institution of higher learning, or sanctioned by a public institution of higher learning, to:

 (i) promote or promulgate policies and procedures at the institution designed and implemented with reference to race, color, or ethnicity;

 (ii) promote or promulgate trainings, programming, or activities at the institution designed and implemented with reference to race, color, ethnicity, gender identity, or sexual orientation; or

 (iii) promote as the official position of the institution, the administration of the institution, or any administrative unit of the institution, a particular, widely contested opinion referencing unconscious or implicit bias, cultural appropriation, allyship, transgender ideology, microaggressions, group marginalization, anti‑racism, systemic oppression, social justice, intersectionality, neo‑pronouns, heteronormativity, disparate impact, gender theory, racial or sexual privilege, or any related formulation of these concepts; or

 (b) any division, office, center, or other unit of the institution or component of the institution that is responsible for creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to diversity, equity, and inclusion.

 (3) “Diversity, equity, and inclusion officer” or “DEI officer” means an individual who is a full or part‑time employee of the institution or component of the institution, or an independent contractor of the institution, whose duties for the institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to diversity, equity, and inclusion.

 (4) “Diversity, equity, and inclusion training” or “DEI training” means training, seminar, discussion group, workshop, or other instructional program, whether provided in‑person, online, or by any other means, with a purpose of advising, counseling, demonstrating, explaining, instructing, or teaching participants about diversity, equity, and inclusion, including:

 (a) interrelated concepts purporting to:

 (i) describe or expose structures, systems, or relations of power, privilege, or subordination on the basis of race, sex, color, gender, ethnicity, gender identity, or sexual orientation;

 (ii) describe methods to identify, dismantle, or oppose such structures, systems, or relations; or

 (iii) justify differential treatment or special benefits conferred on the basis of race, sex, color, gender, ethnicity, gender identity, or sexual orientation; or

 (b) concepts of unconscious or implicit bias, cultural appropriation, allyship, transgenderism, microaggressions, micro‑invalidation, group marginalization, anti‑racism, systemic oppression, ethnocentrism, structural racism, structural inequity, social justice, intersectionality, neo‑pronouns, inclusive language, heteronormativity, disparate impact, gender identity, gender theory, racial or sexual privilege, or related formulations of these concepts.

 (5) “Diversity statement” means any written or oral statement discussing:

 (a) the race, sex, color, ethnicity, gender identity, or sexual orientation of the person making the statement;

 (b) the views of the person making the statement on, experience with, or contributions to:

 (i) diversity, equity, and inclusion;

 (ii) marginalized groups;

 (iii) anti‑racism;

 (iv) social justice;

 (v) intersectionality;

 (vi) confessing one’s race‑based privilege; or

 (vii) related concepts;

 (c) the views of the person making the statement on, experience with the race, sex, color, ethnicity, gender identity, or sexual orientation of students and co‑workers; or

 (d) the views of the person making the statement regarding any theory or practice that advocates for the differential treatment of any individual or groups of individuals based on race, sex, color, gender, ethnicity, gender identity, or sexual orientation.

 (B) In determining admissions or employment decisions, a public institution of higher learning may not condition or promise admission, benefits, employment or promote differential treatment to an applicant for admission, or hiring or promotion to a faculty member, on the applicant’s or faculty member’s commitment to or making a declaration of personal support for or disagreement with any political ideology or movement, including a promise or statement regarding diversity, equity, inclusion, or other associated political issues. A public institution of higher learning may not ask for or demand any such promise or declaration from an applicant or a faculty member.

 (C) If a public institution of higher learning receives a promise or declaration describing a commitment to any political ideology or movement, including a promise or declaration regarding diversity, equity, inclusion, or other associated political issues, it may not promote differential treatment, grant or deny admission or benefits to a student, or hiring or promotion to a faculty member, based on the opinions expressed in the promise or declaration.

 (D) Each public institution of higher learning annually before July first shall issue a report detailing the total number of administrative and nonteaching positions that support or are associated with diversity, equity, and inclusion initiatives at the institution. The report must include the total salaries and total operating costs associated with DEI at the institution for the preceding fiscal year. The institution shall provide these reports to each member of the House of Representatives and each member of the Senate.

 (E) A public institution of higher learning may not grant preference to any applicant for admission or employment or promotion on the basis of race, sex, color, ethnicity, or national origin. Nothing in this subsection may be interpreted as prohibiting bona fide qualifications based on sex that are conducive to the normal operation of the institution.

 (F) A public institution of higher learning may not make diversity training mandatory, including a requirement:

 (1) of any kind imposed on a student, employee, or applicant for employment including, but not limited to, a requirement, the nonfulfillment of which may adversely affect the status, salary, or benefits of an employee or applicant for employment at the institution or component;

 (2) to participate in any administrative process or decision‑making body of the institution, such as a hiring committee; or

 (3) to participate in any otherwise available program sponsored by the institution or component.

 (G) A public institution of higher learning may not require or solicit a diversity statement as part of an admissions process, employment application process, hiring process, contract renewal process, or promotion process; or as a condition of participation in any administrative or decision‑making function of the institution. Additionally, the institution may not grant preferential consideration to an applicant, teacher, employee, or student for opinions expressed or action taken pertaining to another individual or a group of individuals in which the institution’s consideration is based on race, sex, color, ethnicity, gender identity, or sexual orientation of those other individuals.

 (H) The provisions of this section do not prohibit any program or training scripted by licensed attorneys and required to comply with the institution’s obligations under Title IX of the Education Amendments of 1972, as amended, the Americans with Disabilities Act, as amended, the Age Discrimination in Employment Act, as amended, Title VI of the Civil Rights Act of 1964, applicable court order, or other applicable state and federal law, provided the institution makes the materials for the program publicly available on the institution’s website.

 (I) Nothing in this section prohibits a public institution of higher learning from complying with federal law or acting against a student, professor, or employee for violations of federal or state law or requiring a student, professor, or employee to comply with federal or state law, including antidiscrimination laws.

SECTION 4. Chapter 101, Title 59 of the S.C. Code is amended by adding:

 Section 59‑101‑470. This article may not be construed to:

 (1) unduly burden or violate a person’s state and federal constitutional rights, including, but not limited to, the First amendment to the United States Constitution and Article I, Section 2 of the South Carolina Constitution; or

 (2) prohibit the promotion of racial, cultural, ethnic, or intellectual diversity or inclusiveness, so long as such efforts do not conflict with the requirements of this article.

SECTION 5. This act takes effect upon approval by the Governor.

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