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Summary: Rejecting Racism in Postsecondary Education Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/5/2024 House Prefiled

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3219_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by ENACTing THE “REJECTING RACISM IN POSTSECONDARY EDUCATION ACT” by adding article 4 to chapter 101, title 59, so as to entitle the article “rejecting racism in postsecondary education”; TO PROVIDE THE PURPOSE OF THE ACT; TO PROVIDE NECESSARY DEFINITIONS; AND TO ENACT PROVISIONS TO PREVENT DISCRIMINATION, TO PROMOTE THE INTELLECTUAL DEVELOPMENT OF STUDENTS AND FACULTY OF PUBLIC K-12 AND SECONDARY SCHOOLS IN THIS STATE, AND TO PROTECT THE FREE EXCHANGE OF IDEAS ACCORDING TO THE UNITED STATES CONSTITUTION AND THE CONSTITUTION OF THIS STATE.

Whereas, the General Assembly finds that the First Amendment of the United States Constitution robustly protects the right to speak without government interference, but not to compel others to speak, adopt, affirm, adhere to, or profess specific beliefs; and

Whereas, the General Assembly finds that the Fourteenth Amendment of the United States Constitution holds that no state shall deny to any person within its jurisdiction the equal protection of the law; and

Whereas, the General Assembly finds that Title IV of the Civil Rights Act of 1964 “promotes the desegregation of public schools and authorizes the U.S. Attorney General to file lawsuits to enforce the provisions of the Civil Rights Act. It defines ‘desegregation’ as ‘the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin,’ thereby removing government-sanctioned racial discrimination in schools and implementing the Supreme Court’s holding in *Brown* [*v. Board of Education*] that racial separation is a violation of the Equal Protection Clause of the Fourteenth Amendment”; and

Whereas, the General Assembly finds that Title VI of the Civil Rights Act of 1964 holds that: “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance”; and

Whereas, the General Assembly finds that an example of how postsecondary institutions are compelling certain speech and beliefs among employees about racial issues is that nearly one-fifth of the jobs in higher education require applicants to write a diversity statement pledging their commitment to diversity, equity, and inclusion (DEI), according to an American Enterprise Institute report from November 2021; and

Whereas, the General Assembly finds that in a study of sixty-five universities representing sixteen percent of all students at four-year universities, researchers found that these schools employed an average of forty-five staff members to carry out DEI activities, which are activities that further discrimination, exclusion, and indoctrination. Research finds that the presence and size of DEI offices are unrelated to student satisfaction at these postsecondary institutions; and

Whereas, the General Assembly finds that peer-reviewed studies have found that DEI training programs are ineffective at reducing bias and that such programs “in general, do not change people.” In some cases, the training has led to increased reported levels of resentment, as well as reducing participants’ likelihood of assuming responsibility for “avoiding discrimination”; and

Whereas, the General Assembly finds that the U.S. Supreme Court ruled that colleges may not use race or racial stereotypes as the basis in college admissions; and

Whereas, the General Assembly finds that according to Speech First, forty-five percent of all private colleges and fifty-five percent of public colleges operate a bias-reporting system that encourages individuals on campus to report someone else’s First Amendment-protected speech, reports that trigger burdensome and unfair university investigations. The U.S. Department of Justice issued a statement of interest in 2018 against the University of Michigan’s “Bias Response Team” saying that such a policy “chills protected speech”; and

Whereas, the General Assembly finds that the U.S. Department of Justice has also stated: “Freedom of speech and expression on the American campus are under attack.” Surveys find that eighty percent of students practice self-censorship “at least part of the time” and that sixty percent of students “have at some point felt they couldn’t express an opinion for fear of how students, professors, or college administrators might respond”; and

Whereas, the General Assembly finds that accrediting agencies should not consider the existence of discriminatory “racial bias” training and indoctrination programs or other DEI policies, programs, or practices when making accreditation decisions; and

Whereas, the General Assembly finds that accreditors have sent biased “notices of concern” to colleges wrongly claiming that they are not “truly inclusive” according to accreditors’ discriminatory definitions of DEI. Now, therefore:

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

SECTION 1. This act may be cited as the “Rejecting Racism in Postsecondary Education Act.”

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

Article 4

Rejecting Racism in Postsecondary Education

Section 59-101-710. The purpose of this article is to ensure that administrators, faculty, and other employees of public K-12 and secondary schools in this State maintain nondiscriminatory policies in accordance with Title IV and Title VI of the Civil Rights Act of 1964.

Section 59-101-720. For purposes of this article:

(1) “Postsecondary institution” means a public institution of higher learning in this State as defined in Section 59-103-5.

(2) “Affirm, support, adopt, or adhere to” means communicative speech or actions including, but not limited to, engaging in symbolic speech, holding signs, raising hands, signing a pledge, participating in a parade or “privilege walk,” or racially segregated activity.

(3) “Compel” means causing or pressuring an individual to perform some act or state an idea or belief against his or her will or retaliating against a person who declines to so act or state.

(4) “Course of instruction” or “unit of study” means a class, single component, or subject offered by a postsecondary institution for the completion of a degree or that leads to a postsecondary award, including academic credit or for the purposes of auditing a class.

(5) “Accreditation” means the status of public recognition that an accrediting agency grants to an educational institution or program that meets the agency’s standards and requirements.

(6) “Accrediting agency” means a legal entity, or that part of a legal entity, that conducts accrediting activities and makes decisions about the accreditation or preaccreditation status of institutions, programs, or both. It includes a national, regional, or programmatic accrediting agency.

(7) “Diversity, equity, and inclusion” or “DEI” means:

(a) an office, division, department, or administrative provider of a unit of study at a postsecondary institution with the purpose of:

(i) influencing academic, administrative, hiring, or employment practices at the institution; and

(ii) promoting racial preferences;

(iii) promoting differential treatment on the basis of race, color, or ethnicity; or

(iv) promoting political or social activism to consider race, color, or ethnicity as factors in decision-making, except where required by federal or state law; and

(v) promoting such promotion described in sub-subitem (iii) that conflicts with color-blind and sex-neutral processes that align with state and federal antidiscrimination laws; or

(b) a program, activity, applicant statement, or training described in Section 59-101-730 that promotes an activity described in sub-subitem (iii).

Section 59-101-730. In order to prevent discrimination, to promote the intellectual development of students and faculty of public K-12 and secondary schools in this State, and to protect the free exchange of ideas according to the United States Constitution and the Constitution of this State, the following provisions are applicable to all public and private institutions of higher learning in this State:

(1) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution shall compel another officer, administrator, employee, teacher, contractor, or student to speak, adopt, affirm, adhere to, or profess ideas in violation of Title IV or Title VI of the Civil Rights Act of 1964 including, but not limited to, the following:

(a) that individuals should be adversely or advantageously treated on the basis of his or her race, ethnicity, color, or national origin; and

(b) that individuals or groups, by virtue of race, ethnicity, color, or national origin, bear collective guilt or are inherently responsible for actions committed by other members of the same race, ethnicity, color, or national origin.

(2) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution may segregate, track, classify, or treat differently students on the basis of race, ethnicity, color, or national origin. This includes offering a benefit, program, or privilege to one student or individual over another based on the race, ethnicity, color, or national origin of the recipient, or demoting, declassifying, preventing participation, grading, assessing, or in any way disadvantaging one student or individual over another based on the race, ethnicity, color, or national origin.

(3) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution may, whether or not in the course of instruction or unit of study, compel or direct students to personally voice support for, affirm, adopt, or adhere to any tenet identified in item (1).

(4) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution shall, whether or not in the course of instruction, unit of study, professional development, or training program, direct or otherwise compel an employee of a postsecondary institution to personally voice support for, affirm, adopt, or adhere to a tenet identified in item (1).

(5) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution operating in this State, when acting in the course of his or her official duties, shall organize, participate in, or carry out an act or communication that would violate item (1). This may not be construed to prohibit an employee from discussing the ideas and history of the concepts described in item (1) for legitimate educational or pedagogical purposes consistent with this article and using methods of communications consistent with this article.

(6) No officer, agent, administrator, employee, teacher, or contractor of a postsecondary institution operating in this State may condition enrollment or attendance in a class, training, or orientation on the basis of race, color, or national origin where not required by federal law.

(7) When taking action on the accreditation or renewal of accreditation of an institution of higher education located in whole or in part in South Carolina, an accrediting agency may not:

(a) base its accrediting decision on a review or consideration of the DEI policies, programs, or practices of that institution;

(b) collect information related to the DEI policies, programs, or practices of that institution; or

(c) include a requirement related to DEI including, but not limited to, requirement of a diversity statement from an institution of higher education or an employee or contractor.

(8) Nothing in this statute prohibits or authorizes officers, agents, administrators, employees, teachers, contractors, or students of a postsecondary institution from discussing public policy issues of the day or ideas that individuals may find unwelcome, disagreeable, or offensive.

(9) Postsecondary institutions that are in violation of this section are not eligible for state funding. To regain eligibility, an institution must demonstrate compliance with all requirements for no less than one fiscal year after the fiscal year in which the institution became ineligible.

(10) In addition to enforcement by the Attorney General of this State, an individual may also bring a private right of action against a postsecondary institution engaged in the prohibited discrimination for a restraining order, a preliminary or permanent injunction, actual damages, and as otherwise considered appropriate to stop a violation of this statute. The individual is entitled to recovery of all attorney’s fees and costs incurred as well as liquidated damages in the amount of five thousand dollars for each day that a postsecondary institution violates this statute.

(11) A postsecondary institution may not:

(a) expend state funds and shall reject federal funds whose receipt requires the institution to promote, support, or maintain DEI programs or campus activities whether or not targeted or provided to employees, students, guests, or the public;

(b) hire or assign an institution employee or contract with a third party to conduct DEI activities;

(c) compel, require, or solicit from a job applicant a DEI statement or give preference to a job applicant that includes a DEI statement; or

(d) require a student applying to a postsecondary institution or job applicant at a postsecondary institution to participate in diversity, equity, or inclusion training as a condition of enrollment or hiring, respectively.

(12) Nothing in this article may be construed to prevent compliance with state or federal civil rights laws that do not depend on receipt of state or federal funding.

(13) A postsecondary institution may not require a current or prospective officer, agent, administrator, employee, teacher, or contractor to submit a statement describing his or her views on matters related to race, ethnicity, color, or national origin, often called diversity statements, to be considered for the purposes of hiring, evaluating, or promoting those administrators, employees, or teachers.

(14) This article may be enforced through a civil action brought against the accrediting agency by a person who was or is a student of the institution of higher education or was or is employed by or contracted with the institution of higher education.

(15) This article also may be enforced against the accrediting agency by the Attorney General on behalf of the State. A violation of this article constitutes a violation of the Human Affairs Law in Chapter 13, Title 1, and the Attorney General may investigate and seek remedies as provided in that law. Any violation of this article also constitutes an unfair act in violation of the South Carolina Unfair Trade Practices Act in Chapter 5, Title 39, and the Attorney General may investigate and seek remedies as provided in that law.

(16) In addition to other remedies available by law or equity, an accrediting agency that violates this article is obligated to pay the reasonable attorney’s fees and costs of the party bringing the lawsuit and to pay damages to the party bringing the lawsuit in an amount equal to three times all monies paid to the accrediting agency by the institution of higher education for the accrediting agency’s services, whether dues, fees, or otherwise.

(17) In addition to other remedies available by law or equity, an accrediting agency that violates this article is liable to pay civil penalties to the party bringing the lawsuit in an amount up to one thousand dollars per student that attended the institution of higher education at the time the accrediting agency violated this article.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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