WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 870

By Senators Rucker, Taylor, Karnes, Roberts, Maynard, Martin, Smith, and Stuart

[Introduced February 19, 2024; referred
to the Committee on Education; and then to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7, and §16-67-8; to amend said code by adding thereto a new section, designated §18-2-9b; to amend said code by adding thereto a new section, designated §18-5-29; to amend said code by adding thereto a new article, designated §18B-1G-1, §18B-1G-2, §18B-1G-3, §18B-1G-4, and §18B-1G-5; and to amend said code by adding thereto two new sections, designated §18B-14-5 and §18B-14-6, all relating to Restoring Sanity Act; relating to nondiscrimination; creating the Medical Personnel Protection Act; establishing purpose; defining terms; requiring certain certifications by a medical institution of higher education; requiring a medical institution of higher education to publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions; prohibiting internal diversity, equity, and inclusion audits or diversity, equity, and inclusion consultants; requiring standardized admissions tests as requirement for admission; establishing parameters for a medical institution of higher education to alter the academic standards for the admission of new students; imposing diversity, equity, and inclusion related requirement and restrictions on healthcare-related professional licensing boards and organizations that issue healthcare-related professional licenses and certifications; requiring medical providers and medical institutions of higher education to certify they do not and will not require ascription to, the study of or instruction with, certain diversity, equity, and inclusion material; imposing requirements on a state entity applying for a federal healthcare-related grant related to diversity, equity, and inclusion; allowing action against a healthcare provider or medical institution of higher education for a violation of article; prohibiting a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by an employee of certain specified concepts; prohibiting a state institution of higher education or any of its employees from requiring a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that certain specified concepts are factual and accurate or must be held as a belief of the student or employee; defining terms; recognizing that state institutions of higher education have an obligation to prohibit discrimination and have an obligation to protect the right to free speech; clarifying what is not prohibited; establishing public elementary and secondary school complaint and appeal procedures for alleged violations and complaint reporting procedures; requiring each campus to report to the Higher Education Policy Commission or the Council for Community and Technical College Education, a description of any violations; requiring certain information on the complaints filed and reported violations to be reported to the Legislative Oversight Commission on Education Accountability; providing that neither county board or public charter school employees are required to use a student’s preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student’s biological sex; prohibiting state institutions of higher education from establishing, sustaining, supporting, or staffing a diversity, equity, and inclusion officer or office; defining terms; stating what prohibition does not cover or affect; prohibiting state institution of higher education from expending certain moneys until a report is filed with the Joint Committee on Education; requiring a new report to be filed on an annual basis; providing for enforcement; requiring reallocation of certain moneys that would have been expended on diversity, equity, and inclusion offices or officers to merit scholarships for lower-income and middle-income students and to reduce tuition and mandatory fees for resident students; stating effective date; declaring the policy of the state that the administrations of state institutions of higher education, and their administrative units, be officially neutral with regard to certain widely contested opinions; defining "diversity training"; prohibiting a diversity statement in certain instances; prohibiting state institutions of higher education from giving preferential consideration to an applicant, student, staff member, or faculty member due to certain opinions expressed or actions taken.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 67. medicAL PERSONNEL PROTECTION Act.

§16-67-1. Purpose.

The purpose of this article is to ensure that state-funded medical providers and educational institutions provide patient care, curricula, and training that serve patients and students equally, regardless of their race or other immutable characteristics, and to protect the practice of medicine and the education and training of medical personnel from the effects of harmful ideologies.

§16-67-2. Definitions.

As used in this article:

"Academic standards" means the grade point average, admissions standardized test score, or other objective metric used to measure a student's achievements for the purposes of admission into, advancement in, or graduation from a medical institution of higher education;

"Curriculum" means the subject matter studied within a healthcare-related academic program, including all materials used, instruction provided, and third-party educational services retained;

"Diversity, Equity, and Inclusion (DEI)":

(1) Means an effort to promote racial diversity in an aspect of a healthcare related academic program; a reference to group differences within a given setting along cultural, ethnic, gender, gender identity, national origin, race, religion, or sexual orientation lines; and promulgating policies, practices, and procedures designed or implemented with reference to those group differences; and

(2) Does not include equal opportunity or equal employment opportunity materials designed to inform individuals about the prohibition on discrimination based on protected status under state and federal law;

"Healthcare provider" means public hospitals and public healthcare providers, including, but not limited to, hospitals, doctors' offices, outpatient clinics, medical testing sites, medical labs, physical or occupational therapy or rehabilitation providers, chiropractors, dentists, optometrists, mental health and clinical social workers, and related providers;

"Healthcare-related academic program" means a healthcare-related area of study designed to prepare students for employment as or with a healthcare provider by conferring a degree or certification, including, but not limited to, nursing, pre-medical school majors, medical doctor degrees, psychiatry, clinical social work, dentistry, dental hygiene, physical or occupational therapy, chiropractic care, medical equipment technicians, and all other related fields;

"Healthcare-related professional licensing board" includes public licensing boards for audiology and speech pathology, chiropractic, dentistry, dietetics and nutrition, medicine, osteopathy, long-term care, mental health and human services, massage therapy, nursing, occupational therapy, optometry, pharmacology, physical therapy, podiatry, professional counseling, psychology, and social work; and

"Medical institution of higher education" means a state institution of higher education offering bachelor's, master's, or doctoral degrees; or a trade school offering healthcare-related degrees, certification programs, or training that receives state funds.

§16-67-3. Annual higher education certification.

(a) A medical institution of higher education shall annually certify to the Secretary of the Department of Health and the Higher Education Policy Commission or Council for Community and Technical College Education, as applicable, by December 31 that the institution does not require:

(1) Applicants to ascribe to DEI ideologies or discriminate against applicants who do not ascribe to DEI ideologies during the application process; or

(2) Admitted students to study or ascribe to DEI ideologies within the student's medical institution of higher education.

(b) A medical institution of higher education shall publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database that is readily searchable by the public.

(c) A medical institution of higher education shall not conduct internal DEI audits or otherwise engage DEI consultants.

§16-67-4. Standardized admissions test required.

(a) Medical institutions of higher education shall require a standardized admissions test focused on knowledge and critical thinking around science and medical training, as a requirement for admission.

(b) Before a medical institution of higher education may alter the academic standards for the admission of new students to a healthcare-related course of study or for the conferral of a healthcare-related degree or certificate, the medical institution of higher education shall submit to the President of the Senate, the Speaker of the House of Delegates, and the Higher Education Policy Commission or Council for Community and Technical College Education, as applicable:

(1) A copy of the proposed academic standards;

(2) A concise general statement explaining the proposed standards; and

(3) The proposed effective date of the proposed standards.

(c) The proposed standards described in subsection (b) of this section become effective no earlier than 60 days after the medical institution of higher education has complied with subsection (b).

(d) The proposed standards described in subsection (b) of this section do not become effective if, within 60 days of receiving the information required in subsection (b) of this section, the Legislature passes, and the governor approves, a joint resolution expressly disapproving the proposed standards. If such a resolution is passed and approved, then the proposed standards are null and void and of no effect.

§16-67-5. Prohibiting certain conditions for obtaining or renewing licenses.

(a) Healthcare-related professional licensing boards shall not adopt or impose, as a condition of obtaining or renewing licenses, any incentives, or requirements that applicants for licensures undergo, demonstrate familiarity with, or support any DEI training, education, material, or program.

(b) Organizations that issue state-required, healthcare-related professional licenses and certifications shall not use DEI material or require DEI training as part of the certification process.

(c) Healthcare-related professional licensing boards and organizations that issue healthcare-related professional licenses and certifications shall not conduct internal DEI audits or otherwise engage DEI consultants.

§16-67-6. Requiring certification regarding DEI material.

All medical providers and medical institutions of higher education shall certify to the Secretary of the Department of Health on an annual basis by December 31 that they do not and will not require their employees, contractors, volunteers, vendors, or agents to ascribe to, study, or be instructed with DEI material with respect to state funds.

§16-67-7. Requirements regarding application for certain federal healthcare-related grants.

A state entity applying for a federal healthcare-related grant related to DEI shall:

(1) Publish on its website all materials, requirements, and instructions related to the federal grant application that are in the entity's possession;

(2) Submit a copy of the grant proposal to the Secretary of the Department of Health for public posting; and

(3) Submit a copy of the grant proposal to all members of the Joint Standing Committee on Health.

§16-67-8. Allowing action against a healthcare provider or medical institution of higher education.

(a) An aggrieved person may commence an action against a healthcare provider or medical institution of higher education for a violation of this article.

(b) If an aggrieved person proves that a healthcare provider or medical institution of higher education violated this part, then the person may obtain:

(1) Declaratory relief;

(2) Injunctive relief;

(3) Statutory damages of not less than $100,000 assessed against the healthcare provider or medical institution of higher education found by a court to have violated this part;

(4) Compensatory damages; and

(5) Costs and attorney's fees.

(c) Sovereign immunity to suit is waived and abolished to the extent of liability created by this part. A person having a claim under this part may sue a healthcare provider or medical institution of higher education, which would otherwise be entitled to such immunity, for damages allowed under this part.

(d) An aggrieved person must bring suit under this part no later than one year after the alleged violation occurred.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2024.

(a) As used in this section:

(1) "Biological sex" means an individual’s physical form as a male or female based solely on the individual’s reproductive biology and genetics at birth;

(2) "Ethnic group" means a category of population that is set apart and bound together by common ties of race, language, nationality, or culture; and

(3) "Race" means any one of the groups that humans are often divided into based on physical traits regarded as common among people of shared ancestry.

(b) A school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities may not provide instruction in, require instruction in, make part of a course, or require a statement or affirmation by any employee of the following concepts:

(1) One race, ethnic group, or biological sex is morally or intellectually superior to another race, ethnic group, or biological sex for any inherent or innate reason;

(2) An individual, by virtue of the individual’s race, ethnicity, or biological sex, is racist, sexist, or oppressive, whether consciously or unconsciously for any inherent or innate reason;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual’s race, ethnicity, or biological sex;

(4) An individual’s moral character is strongly influenced by the individual’s race, ethnicity, or biological sex;

(5) An individual, by virtue of the individual’s race, ethnicity, or biological sex, bears responsibility for actions committed by other members of the same race, ethnic group, or biological sex;

(6) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual’s race, ethnicity, or biological sex; and

(7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or sexist or were created by members of a particular race, ethnic group, or biological sex to oppress members of another race, ethnic group, or biological sex.

(c) Nothing in subsection (b) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course if discussion of alternative theories is also included in the course;

(2) The discussion, examination and debate that race, ethnicity, or biological sex has impacted historical or current events, including the causes of those current or historical events; and

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution and the West Virginia Constitution outside the context of employment with any school district or public charter school.

(d) Any student, parent, or guardian of a student, or employee aggrieved by an alleged violation of this section may file a complaint with the school principal. Any complainant, upon an adverse ruling or no ruling within 10 business days by the school principal, may file an appeal to the county superintendent except that in the case of a student enrolled in or an employee of a public charter school, the complainant may file an appeal to the authorizer. Any complainant, upon an adverse ruling or no ruling within 10 business days by the county superintendent or public charter school authorizer, may file an appeal to the state superintendent. The state superintendent shall make forms available for students, parents or guardians of a student, and employees to file complaints and appeals pursuant to this subsection. Each school principal shall report the number of complaints filed with him or her the previous school year, the nature of each complaint, and the resolution of each complaint to the county superintendent annually by August 1. The county superintendent shall report the number of complaints filed in his or her county the previous school year, the nature of each complaint, and the resolution of each complaint to the state superintendent annually by September 1. The state superintendent, or his or her designee shall report to the Legislative Oversight Commission on Education Accountability the number of complaints filed during the previous school year statewide and by county, the nature of each complaint, and the resolution of each complaint annually by October 1.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-29. Preferred gender pronouns.

The Legislature finds that:

(a) County board and public charter school employees should never be compelled to affirm a belief with which they disagree.

(b) For the purposes of this section, the term "biological sex" means an individual’s physical form as a male or female based solely on the individual’s reproductive biology and genetics at birth.

(c) County board and public charter school employees are not:

(1) Required to use a student’s preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student’s biological sex;

(2) Civilly liable for using a pronoun that is consistent with the biological sex of the student to whom the teacher or employee is referring, even if the pronoun is not the student’s preferred pronoun; and

(3) Subject to an adverse employment action for not using a student’s preferred pronoun if the student’s preferred pronoun is inconsistent with the student’s biological sex.

(d) A county board or public charter school is not civilly liable if a county board or public charter school employee refers to a student using a pronoun that is consistent with the biological sex of the student to whom the employee is referring, even if the pronoun is not the student’s preferred pronoun.

(e) No county board or public charter school may establish a policy or take any action that is contrary to this section.

CHAPTER 18B. HIGHER EDUCATION.

article 1G. Inclusion Offices and officers prohibited.

§18B-1G-1. Definitions.

As used in this chapter:

(a) "Diversity, equity, and inclusion" includes all of the following:

(1) Any effort to manipulate or otherwise influence the composition of the faculty or student body with reference to race, sex, color, gender identity, sexual orientation, or ethnicity, apart from ensuring colorblind and sex-neutral admissions and hiring in accordance with state and federal anti-discrimination laws;

(2) Any effort to promote differential treatment of or provide special benefits to individuals on the basis of race, color, or ethnicity;

(3) Any effort to promote or promulgate policies and procedures designed or implemented with reference to race, color, or ethnicity;

(4) Any effort to promote or promulgate trainings, programming, or activities designed or implemented with reference to race, color, ethnicity, gender identity, or sexual orientation; and

(5) Any effort to promote, as the official position of the state institution of higher education, a particular, widely contested opinion referencing unconscious or implicit bias, cultural appropriation, allyship, transgender ideology, microaggressions, group marginalization, anti-racism, systemic oppression, social injustice, intersectionality, neo-pronouns, heteronormativity, disparate impact, gender theory, racial privilege, sexual privilege, or any related formulation of these concepts;

(b) "Diversity, equity, and inclusion office" means any division, office, center, or other unit of a state institution of higher education that is responsible for creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, or procedures related to diversity, equity, and inclusion;

(c) "Diversity, equity, and inclusion office" does not include any of the following:

(1) An office staffed exclusively by licensed attorneys and paralegal and secretarial support for the licensed attorneys, operating with the sole and exclusive mission of ensuring legal compliance under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681, *et seq*., as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.,* as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, West Virginia Code §5-11-1, *et seq.*, or any other applicable federal or state law or court order;

(2) An academic department within a state institution of higher education that exists primarily for the purpose of offering courses for degree credit and that does not establish a policy or procedures to which other departments of the public institutions of higher education are subject;

(3) An office solely engaged in new student recruitment;

(4) A registered student organization; or

(5) An office that a state institution of higher education is required to maintain pursuant to a contract or agreement with a federal governmental entity;

(d) "Diversity, equity, and inclusion officer" means an individual who is either employed by a state institution of higher education or who is an independent contractor of a state institution of higher education and whose duties include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to diversity, equity, and inclusion;

(e) "Diversity, equity, and inclusion officer" does not include any of the following:

(1) Any employee who is a licensed attorney and whose sole job duties related to diversity, equity, and inclusion are to ensure compliance with the state institution of higher education's obligations under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681, *et seq*., as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.,* as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, §5-11-1, *et seq.* of this code, or any other applicable federal or state law or court order;

(2) Any faculty member while engaged in teaching, research, or the production of creative works, the dissemination of the faculty member's research or creative works, or advising a registered student organization;

(3) A guest speaker or performer with a short-term engagement; or

(4) Any employee that a state institution of higher education is required to employ pursuant to a contract or agreement with a federal governmental entity.

(f) "State institution of higher education" means an institution of higher education means any university, college, or community and technical college under the jurisdiction of a governing board as defined in §18B-1-2 of this code.

§18B-1G-2. Restrictions; reporting.

(a) A state institution of higher education shall not establish, sustain, support, or staff a diversity, equity, and inclusion officer or office.

(b) Subsection (a) shall not be construed to cover or affect a state institution of higher education's support or funding of any of the following:

(1) Academic course instruction;

(2) Research or creative works by the state institution of higher education's students, faculty, or other research personnel, and the dissemination of such research or creative works;

(3) Activities of registered student organizations;

(4) Arrangements for guest speakers and performers with short-term engagements;

(5) Mental or physical health services provided by licensed professionals;

(6) Policies, programming, training, practices, activities, or procedures related to diversity, equity, and inclusion that are required pursuant to a contract or agreement with a federal governmental entity; or

(7) Sex based educational opportunities such as science, technology, engineering, and mathematics (STEM) opportunities for women.

(c) (1) A state institution of higher education shall not expend any moneys appropriated by the Legislature for the fiscal year beginning on or after July 1, 2024, until the state institution of higher education files with the Joint Committee on Education a report that discloses all of the following:

(A) The steps taken by the academic institution of higher education and its staff, administration, and faculty to comply with subsection (a); and

(B) The amount and job titles of the individuals deemed to be required by the state institution of higher education to comply with Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681, *et seq.*, as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*, as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.,* as amended, , the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, §5-11-1, *et seq.* of this code, or any other applicable federal or state law or court order.

(2) The report described in subdivision (1) of this subsection shall certify that the state institution of higher education is fully compliant with subsection (a).

(3) The state institution of higher education shall publish the report described in subdivision (1) of this subsection on the institution of higher education's webpage.

(4) The state institution of higher education shall file on an annual basis a new report as described in subdivision (1) of this subsection and with the certification described in subdivision (2) of this subsection.

§18B-1G-3. Enforcement; venue.

(a) Any person may notify the attorney general of a state institution of higher education's potential violation of §18B-1G-2 of this code. The attorney general may bring an action against a state institution of higher education for a writ of mandamus to compel the state institution of higher education to comply with §18B-1G-2 of this code.

(b) A student enrolled in a state institution of higher education, a faculty member of a state institution of higher education, or an alumnus of a state institution of higher education alleging a violation of §18B-1G-2 of this code may bring a civil action for injunctive relief against the state institution of higher education to prohibit that state institution of higher education from continuing such violation.

(c) An action brought under this section may be filed in any of the following:

(1) The county in which all or a substantial part of the events or omissions giving rise to the action occurred;

(2) The county in which the principal office of the state institution of higher education is located; or

(3) The county in which the claimant resides, if the claimant is a resident of West Virginia.

§18B-1G-4. Spending.

Public institutions of higher education shall reallocate all unexpended moneys appropriated by the Legislature in fiscal year 2024-2025 that would have been expended on diversity, equity, and inclusion offices or diversity, equity, and inclusion officers on or after the effective date of this Act to merit scholarships for lower-income and middle-income students and to reduce tuition and mandatory fees for resident students.

§18B-1G-5. Effective date.

This Act shall be effective from the date of passage.

ARTICLE 14. MISCELLANEOUS.

§18B-14-5. Anti-Racism Act of 2024.

(a) As used in this section:

(1) "Biological sex" means an individual’s physical form as a male or female based solely on the individual’s reproductive biology and genetics at birth;

(2) "Ethnic group" means a category of population that is set apart and bound together by common ties of race, language, nationality, or culture; and

(3) "Race" means any one of the groups that humans are often divided into based on physical traits regarded as common among people of shared ancestry.

(b) State institutions of higher education in this state have an obligation to prohibit, among other things, discrimination on the basis of race, ethnicity, and biological sex in the administration of their education programs, activities, or with respect to admission or employment.

(c) State institutions of higher education have an obligation to protect the right to free speech and expression protected by the First Amendment of the United States Constitution, the West Virginia Constitution, and the provisions of §18B-20-1, *et seq.* As part of that commitment, state institutions of higher education must be committed to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the university community to be offensive, unwise, immoral, or misguided and that it is for the individual members of the university community, not for the university as an institution, to make those judgements for themselves.

(d) Except as provided in subsection (e) of this section, a state institution of higher education or any employee of a state institution of higher education may not require a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that the following concepts are factual and accurate or must be held as a belief of the student or employee:

(1) One race, ethnic group, or biological sex is morally, or intellectually superior to another race, ethnic group, or biological sex for any inherent or innate reason;

(2) An individual, by virtue of the individual’s race, ethnicity, or biological sex, is racist, sexist, or oppressive, whether consciously or unconsciously for any inherent or innate reason;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual’s race, ethnicity, or biological sex;

(4) An individual’s moral character is strongly influenced by the individual’s race, ethnicity, or biological sex;

(5) An individual, by virtue of the individual’s race, ethnicity, or biological sex, bears responsibility for actions committed by other members of the same race, ethnic group, or biological sex;

(6) An individual has an obligation to feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual’s race, ethnicity, or biological sex; and

(7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or sexist or were created by members of a particular race, ethnic group, or biological sex to oppress members of another race, ethnic group, or biological sex.

(e) Nothing in subsection (d) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course if discussion of alternative theories is also included in the course;

(2) The discussion, examination, and debate that race, ethnicity, or biological sex has impacted historical or current events, including the causes of those current or historical events; and

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution, the West Virginia Constitution, and the §18B-20-1, *et seq.* outside of the context of employment with any state institution of higher education.

(f) Each campus shall report to the Higher Education Policy Commission or the Council for Community and Technical College Education, as applicable, a description of any violations of this section. The description shall include the nature of each incident, as well as what disciplinary action, if any, was taken against members of the campus community determined to be responsible for those specific incidents of violation and shall be reported without revealing personally identifiable information annually, by August 1. The commission and council shall then report to the Legislative Oversight Commission on Education Accountability any violations reported to them pursuant to this subsection.

§18B-14-6. Nondiscrimination.

(a) It is the policy of the state that the administrations of state institutions of higher education, and their administrative units, be officially neutral with regard to widely contested opinions in the state regarding unconscious or implicit bias, cultural appropriation, identity group allyship, transgender ideology, micro aggressions, group marginalization, ant-racism, systemic oppression, social justice, intersectionality, neo-pronouns, heteronormativity, gender theory, racial or sexual privilege, critical race theory, and any related formulation of these concepts.

(b) "Diversity training" means:

(1) Training toward any diversity, equity, and inclusion activity which is any effort to:

(A) Manipulate or otherwise influence the composition of the faculty or student body with reference to race, sex, color, or ethnicity, apart from ensuring colorblind and sex-neutral admissions and hiring in accordance with state and federal anti-discrimination laws;

(B) Engage in, or promote or promulgate policies for, differential attention to, treatment of, or provision of special benefits to, individuals or groups on the basis of race, color, or ethnicity, or of sex except where permitted by law; or

(C) Promote as the official position of the institution or component thereof, or of the administration, or develop or engage in training, programming, or activities promoting, a widely contested opinion in contravention of the neutral educational policy of this state as described in subsection (a) of this section; or

(2) Training from an administrative official or administrative unit of an institution that involves one or more of the following interrelated concepts:

(A) The nation, the state, American or state culture, society in general is based on or significantly influence by present-day institutional structures or relations of power, privilege, subordination, or oppression that operate on the basis of race, sex, color, gender, ethnicity, gender identity, or sexual orientation, or any intersection of these classes;

(B) Differential treatment or special benefits should be conferred on the basis of race sex, color, gender, ethnicity, gender identity, or sexual orientation; or

(C) Training from an administrative official or administrative unit of an institution to recognize or understand unconscious or implicit bias, cultural appropriation, identity group allyship, microaggressions, micro-invalidation, group marginalization, anti-racism, systemic oppression, structural racism, structural inequity, transphobia, homophobia, heteronormativity, racial or sexual privilege, social justice, intersectionality, neo-pronouns, inclusive language, gender identity, gender theory, or related formulation of these concepts.

(c) No diversity statement shall ever be required or solicited 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 any public institution of higher education.

(d) No public institution of higher education shall give preferential consideration to an applicant, student, staff member, or faculty member due to any opinion expressed or action taken in support of another individual or a group of individuals on the basis of race, sex, color, ethnicity, gender identity, or sexual orientation.

NOTE: The purpose of this bill is to establish the Anti-Woke Act; prohibit a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by any employee certain concepts; prohibit a state institution of higher education and an employee of a state institution of higher education from requiring a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that certain concepts are factual and accurate or must be held as a belief of the student or employee; provide that county board and public charter school employees are not required to use student’s preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student’s biological sex; prohibit a state institution of higher education from establishing, sustaining, supporting, or staffing a diversity, equity, and inclusion officer or office; and declare the policy of the state that the administrations of state institutions of higher education, and their administrative units, be officially neutral with regard to certain widely contested opinions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.