

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 3319**

<b>FISCAL NOTE</b>
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By Delegates Ward, Mazzocchi, Brooks, Crouse,  
Bridges, Heckert, Marple, Steele, Coop-Gonzalez,  
and Ridenour

Introduced March 12, 2025; referred to the Committee  
on Education then the Judiciary

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding four new sections,  
2 designated §18-2-9b, §18-5-29, §18B-14-5, and §18B-14-6; and to amend the code by  
3 adding a new article, designated §18B-1G-1, §18B-1G-2, §18B-1G-3, §18B-1G-4, and  
4 §18B-1G-5, all relating to Restoring Sanity Act; relating to nondiscrimination; prohibiting a  
5 school district, a public charter school, the West Virginia Board of Education, the West  
6 Virginia Department of Education, or any employee of the aforementioned entities from  
7 providing instruction in, requiring instruction in, making part of a course, or requiring a  
8 statement or affirmation by any employee of certain specified concepts; prohibiting a state  
9 institution of higher education or any of its employees from requiring a student or employee  
10 to take instruction in, or include in the curriculum of any required course, or require a  
11 statement or affirmation by any student or employee that certain specified concepts are  
12 factual and accurate or must be held as a belief of the student or employee; defining terms;  
13 recognizing that state institutions of higher education have an obligation to prohibit  
14 discrimination and have an obligation to protect the right to free speech and expression;  
15 clarifying what is not prohibited; establishing public elementary and secondary school  
16 complaint and appeal procedures for alleged violations and complaint reporting  
17 procedures; requiring each campus to report to the Higher Education Policy Commission  
18 or the Council for Community and Technical College Education, a description of any  
19 violations; requiring certain information on the complaints filed and reported violations to  
20 be reported to the Legislative Oversight Commission on Education Accountability;  
21 providing that neither county board or public charter school employees are required to use  
22 a student's preferred pronoun when referring to the student if the preferred pronoun is not  
23 consistent with the student's biological sex, civilly liable for using a pronoun that is  
24 consistent with the biological sex of the student to whom the teacher or employee is  
25 referring, or subject to an adverse employment action for not using a student's preferred  
26 pronoun if the student's preferred pronoun is inconsistent with the student's biological sex;

27 providing that neither a county board or public charter school is civilly liable if a county  
28 board or public charter school employee refers to a student using a pronoun that is  
29 inconsistent with the biological sex of the student to whom the employee is referring;  
30 prohibiting state institutions of higher education from establishing, sustaining, supporting,  
31 or staffing a diversity, equity, and inclusion officer or office; stating what prohibition does  
32 not cover or affect; stating what the diversity, equity, and inclusion office and diversity,  
33 equity, and inclusion officer does not include; requiring a state institution of higher  
34 education to file and certify with the Joint Committee on Education a report of the steps  
35 taken by the academic institution of higher education and its staff, administration, and  
36 faculty to comply; prohibiting state institutions of higher education from expending certain  
37 moneys until a report is filed with the Joint Committee on Education by July 1; requiring  
38 reallocation of certain moneys that would have been expended on prohibited diversity,  
39 equity, and inclusion offices and officers to merit scholarships for lower-income and  
40 middle-income students, first generation college students, or to reduce tuition and  
41 mandatory fees for resident students; stating effective date; declaring the policy of the  
42 state that the administrations of state institutions of higher education, and their  
43 administrative units, be officially neutral with regard to certain widely contested opinions in  
44 the state regarding certain issues; defining "diversity training"; prohibiting a diversity  
45 statement from ever being required or solicited in certain instances; prohibiting state  
46 institutions of higher education from giving preferential consideration to an applicant,  
47 student, staff member, or faculty member due to certain opinions expressed or actions  
48 taken.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 18. EDUCATION.**

**ARTICLE            2.            STATE            BOARD            OF            EDUCATION.**

**§18-2-9b. Anti-Racism Act of 2025.**

1 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

25 (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

52 complaints filed during the previous school year statewide and by county, the nature of each  
 53 complaint, and the resolution of each complaint annually by October 1.

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-29. Preferred gender pronouns.**

1 The Legislature finds that:

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

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

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

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

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

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

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

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

**CHAPTER 18B. HIGHER EDUCATION.**

**ARTICLE 1G. DIVERSITY, EQUITY AND INCLUSION OFFICES AND OFFICERS**  
**PROHIBITED.**

**§18B-1G-1. Restrictions.**

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

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

5           (1) Academic course instruction;

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

8           (3) Activities of registered student organizations;

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

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

11          (6) Services or support provided to individuals with learning, physical or neurological  
12 developmental disabilities;

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

16          (8) Sex-based educational opportunities such as science, technology, engineering, and  
17 mathematics (STEM) opportunities for women.

18          (9) Policies, programming, training, practices, activities or procedures related to diversity,  
19 equity, and inclusion that are required to meet accreditation standards;

20          (10) Policies, programming, training, practices, activities or procedures related to diversity,  
21 equity, and inclusion that are required to satisfy requirements of athletic associations or  
22 conferences;

(11) 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, West Virginia Code §5-11-1, *et seq.*, or any other applicable federal or state law or court order; or

(12) Policies or procedures related to determining scholarships or financial aid for prospective students.

**§18B-1G-2. Exceptions.**

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

(1) An office or position 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 or position solely engaged in student recruitment;

(4) A registered student organization;

(5) An office or position engaged in providing services or support to individuals with learning, physical or neurological developmental disabilities;

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



49 (7) An office or position that a state institution of higher education is required to maintain to  
50 meet academic accreditation standards;

51 (8) An office or position that a state institution of higher education is required to satisfy  
52 requirements set forth by athletic associations or conferences; or

53 (9) A unit which may provide resources to certain individuals as long as the resources are  
54 equally available to all employees or students regardless of race, color, or ethnicity.

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

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

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

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

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

69 (5) Any employee that a state institution of higher education is required to employ to meet  
70 academic accreditation standards; or

71 (6) Any employee that a state institution of higher education is required to employ to satisfy  
72 requirements of athletic associations or conferences.

73 **§18B-1G-3. Reporting.**

74 (a) A state institution of higher education shall file and certify with the Joint Committee on

Education a report of the steps taken by the academic institution of higher education and its staff, administration, and faculty to comply with this article.

(b) The state institution of higher education shall publish the report described in subsection (a) on the institution of higher education's webpage.

(c) The state institution of higher education shall file the report by July 1, 2026, and on July 1 of each year thereafter, as described in subsection (a) or the state institution of higher education shall not be permitted to expend any moneys appropriated by the Legislature for the next fiscal year.

#### **§18B-1G-4. Spending.**

A state institution of higher education shall reallocate any and all unexpended moneys appropriated by the Legislature in fiscal year 2025-2026 that would have been expended on prohibited diversity, equity, and inclusion offices and officers on or after the effective date of this Act to merit scholarships for lower-income and middle-income students, first generation college students, or 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 2025.**

(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

9 other things, discrimination on the basis of race, ethnicity, and biological sex in the administration  
10 of their education programs, activities, or with respect to admission or employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§18B-14-6.**

**Nondiscrimination.**

1 (a) It is the policy of the state that the administrations of state institutions of higher  
2 education, and their administrative units, be officially neutral with regard to widely contested  
3 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-invalidating, group marginalization, anti-racism, systemic

30 oppression, structural racism, structural inequity, transphobia, homophobia, heteronormativity,  
31 racial or sexual privilege, social justice, intersectionality, neo-pronouns, inclusive language,  
32 gender identity, gender theory, or related formulation of these concepts.

33 (c) No diversity statement shall ever be required or solicited as part of an admissions  
34 process, employment application process, hiring process, contract renewal process, or promotion  
35 process; or as a condition of participation in any administrative or decision-making function of any  
36 public institution of higher education.

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

NOTE: The purpose of this bill is to establish the Restoring Sanity 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.