

Effective 7/1/2024

53B-1-118 Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

- (a) "Important government interest" means a governmental purpose relating to athletic competition or athletic safety in public education or privacy.
- (b) "Personal identity characteristics" means an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.
- (c)
 - (i) "Prohibited discriminatory practice" means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that, based on an individual's personal identity characteristics:
 - (A) promotes the differential treatment of an individual without an important government interest;
 - (B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal identity characteristics and in accordance with federal law;
 - (C) influences an individual's admission to, advancement in, or graduation from an institution, the public education system, or an academic program; or
 - (D) influences an individual's participation in an institution-sponsored or public education system-sponsored program.
 - (ii) "Prohibited discriminatory practice" also means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that:
 - (A) asserts that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;
 - (B) asserts that an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;
 - (C) asserts that an individual should be discriminated against in violation of Title VI, Title VII, and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;
 - (D) asserts that an individual's moral character is determined by the individual's personal identity characteristics;
 - (E) asserts that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;
 - (F) asserts that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;
 - (G) asserts that meritocracy is inherently racist or sexist;
 - (H) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;
 - (I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;
 - (J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

- (K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or
 - (L) is referred to or named diversity, equity, and inclusion.
 - (iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.
 - (d) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.
 - (e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.
 - (f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.
 - (g) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.
- (2) An institution may not:
- (a) engage in prohibited discriminatory practices;
 - (b) take, express, or assert a position or opinion on subjects described in Subsection 67-27-107(1)(b)(ii);
 - (c) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or
 - (d) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.
- (3) An institution shall:
- (a) ensure that all students have access to programs providing student success and support;
 - (b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;
 - (c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;
 - (d) develop strategies, including inviting speakers, to promote viewpoint diversity; and
 - (e) establish policies and procedures to include opportunities for education and research on free speech and civic education.
- (4) Beginning on or before July 1, 2025, the board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.
- (5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.
- (6)
- (a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:
 - (i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

- (ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.
 - (b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.
- (7)
- (a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:
 - (i) November 1, 2027, for reports received in years 2025, 2026, and 2027;
 - (ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and
 - (iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.
 - (b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.
- (8) Nothing in this section requires an individual to respond to a campus expression climate survey.
- (9) Nothing in this section limits or prohibits an institution's authority to establish policies that:
- (a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;
 - (b) require disclosure of an employee's academic research, classroom teaching, or coursework; or
 - (c) require for employment, tenure, or promotion to disclose or discuss the applicant's:
 - (i) research;
 - (ii) teaching agenda;
 - (iii) artistic creations; or
 - (iv) pedagogical approaches or experiences with students of all learning abilities.
- (10) This section does not apply to:
- (a) requirements necessary for athletic and accreditation compliance;
 - (b) academic research;
 - (c) academic course teaching in the classroom;
 - (d) a grant that would otherwise require:
 - (i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or
 - (ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;
 - (e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or
 - (f) private scholarships administered by an institution.
- (11) Notwithstanding any other provision of this part, the University of Utah may take any action required for the University of Utah to comply with the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.
- (12)
- (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:
 - (i) for 2025, on each institution of higher education; and

- (ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.
- (b) If the board identifies a violation of this section, the board shall:
 - (i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and
 - (ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.
- (13) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:
 - (a) the review process and each institution's compliance determination; or
 - (b) if a violation is identified, the remediation plan and progress under Subsection (12)(b).
- (14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:
 - (a) report the findings under Subsections (4) and (13) to the Legislature; and
 - (b) make appropriation recommendations about an institution's compliance with this section.
- (15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (12)(b).
- (16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Enacted by Chapter 3, 2024 General Session