

Representative Katy Hall proposes the following substitute bill:

STATE ENTITY RESTRICTIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill prohibits the use of certain statements or materials by a state entity to determine employment, admission, or other benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the use of a prohibited submission in determining employment, admission, or other benefits; and
- ▶ creates limited exceptions to the prohibition in this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-27-502, Utah Code Annotated 1953

53G-2-103, Utah Code Annotated 1953

67-27-105, Utah Code Annotated 1953



26

27 *Be it enacted by the Legislature of the state of Utah:*28 Section 1. Section **53B-27-502** is enacted to read:29 **53B-27-502. Prohibition on use of certain submissions in higher education --**30 **Exceptions.**

31 (1) (a) As used in this section, "prohibited submission" means a submission, statement,
 32 or document that requires a person to articulate the person's ~~H→ [H→ [personal] ←H]~~ personal ←H
 32a1 beliefs or position

32a on a

33 policy or initiative that promotes differential treatment based on race, color, ethnicity, sex,
 34 national origin, or age.

35 (b) "Prohibited submission" includes a submission, statement, or document that relates
 36 to a policy, program, or initiative regarding:

37 (i) diversity, equity, and inclusion;38 (ii) anti-racism;39 (iii) implicit bias; or40 (iv) critical race theory.41 (c) "Prohibited submission" does not include a submission, statement, or document if:

42 (i) the job title for the position includes a phrase listed in Subsections (1)(b)(i) through
 43 (iv); and

44 (ii) the submission, statement, or document relates to a bona fide occupational
 45 qualification for the position.

46 (2) An institution may not request a prohibited submission as a certification or
 47 condition prior to taking action with respect to:

48 (a) employment, including decisions regarding:49 (i) hiring;50 (ii) terms of employment;51 (iii) benefits;52 (iv) seniority status;53 (v) tenure;54 (vi) promotion;55 (vii) transfer; or56 (viii) appointment;

57 (b) admission to or graduation from the institution or an academic program; or
 58 (c) qualification for or receipt of state financial aid or other state financial assistance.

59 (3) An institution may not grant any form of preferential consideration to a person who,
 60 without solicitation from the institution, provides a prohibited submission for consideration for
 61 any action described in Subsection (2).

62 (4) If federal law requires an institution to accept a prohibited $\hat{H} \rightarrow$ [statement]
 62a submission $\leftarrow \hat{H}$, the
 63 institution:

64 (a) may accept the prohibited $\hat{H} \rightarrow$ [statement] submission $\leftarrow \hat{H}$ only to the extent required
 64a under federal law;
 65 and

66 (b) shall limit consideration of the information contained in the prohibited $\hat{H} \rightarrow$ [statement]
 66a submission $\leftarrow \hat{H}$ to
 67 the extent necessary to satisfy the requirement under federal law.

68 (5) Nothing in this section prohibits an institution from requiring compliance with an
 69 institution's specific policies that are necessary to comply with state or federal laws and
 70 regulations, including those relating to prohibited discrimination or harassment.

71 Section 2. Section **53G-2-103** is enacted to read:

72 **53G-2-103. Prohibition on use of certain submissions in public education --**

73 **Exceptions.**

74 (1) (a) As used in this section, "prohibited submission" means a submission, statement,
 75 or document that requires a person to articulate the person's $\hat{H} \rightarrow$ **personal** $\leftarrow \hat{H}$ $\hat{H} \rightarrow$ **beliefs or** $\leftarrow \hat{H}$
 75a1 position on a policy
 75a or initiative
 76 that promotes differential treatment based on race, color, ethnicity, sex, national origin, or age.

77 (b) "Prohibited submission" includes a submission, statement, or document that relates
 78 to a policy, program, or initiative regarding:

79 (i) diversity, equity, and inclusion;

80 (ii) anti-racism;

81 (iii) implicit bias; or

82 (iv) critical race theory.

83 (c) "Prohibited submission" does not include a submission, statement, or document if:

84 (i) the job title for the position includes a phrase listed in Subsections (1)(b)(i) through
 85 (iv); and

86 (ii) the submission, statement, or document relates to a bona fide occupational
 87 qualification for the position.

88 (2) An LEA or district school may not request a prohibited submission as a
89 certification or condition prior to taking action with respect to:

90 (a) employment, including decisions regarding:

91 (i) hiring;

92 (ii) terms of employment;

93 (iii) benefits;

94 (iv) seniority status;

95 (v) tenure;

96 (vi) promotion;

97 (vii) transfer; or

98 (viii) appointment;

99 (b) admission to or graduation from the LEA or district school; or

100 (c) qualification for or receipt of state financial aid or other state financial assistance.

101 (3) An LEA or district school may not grant any form of preferential consideration to a
102 person who, without solicitation from the LEA or district school, provides a prohibited
103 submission for consideration for any action described in Subsection (2).

104 (4) If federal law requires an LEA or district school to accept a prohibited ~~H~~→ [statement]

104a submission ←~~H~~ ,

105 the LEA or district school:

106 (a) may accept the prohibited ~~H~~→ [statement] submission ←~~H~~ only to the extent required
106a under federal law;

107 and

108 (b) shall limit consideration of the information contained in the prohibited ~~H~~→ [statement]

108a submission ←~~H~~ to

109 the extent necessary to satisfy the requirement under federal law.

110 (5) Nothing in this section prohibits an LEA or district school from requiring
111 compliance with an LEA's or district school's specific policies that are necessary to comply
112 with state or federal laws and regulations, including those relating to prohibited discrimination
113 or harassment.

114 Section 3. Section **67-27-105** is enacted to read:

115 **67-27-105. Prohibition on use of certain submissions by governmental employers**

116 **-- Exception.**

117 (1) As used in this section:

118 (a) (i) "Governmental employer" means any department, division, agency, commission,

119 board, council, committee, authority, or any other institution of the state.

120 (ii) "Governmental employer" does not include a political subdivision.

121 (b) (i) "Prohibited submission" means a submission, statement, or document that

122 requires a person to articulate the person's ~~hat~~ **personal** ~~hat~~ **beliefs or** ~~hat~~ position on a

122a1 policy or initiative that

122a promotes

123 differential treatment based on race, color, ethnicity, sex, national origin, or age.

124 (ii) "Prohibited submission" includes a submission, statement, or document that relates

125 to a policy, program, or initiative regarding:

126 (A) diversity, equity, and inclusion;

127 (B) anti-racism;

128 (C) implicit bias; or

129 (D) critical race theory.

130 (iii) "Prohibited submission" does not include a submission, statement, or document if:

131 (A) the job title for the position includes a phrase listed in Subsections (1)(b)(ii)(A)

132 through (D); and

133 (B) the submission, statement, or document relates to a bona fide occupational

134 qualification for the position.

135 (2) A governmental employer may not request a prohibited submission to take action

136 with respect to:

137 (a) employment, including decisions regarding:

138 (i) hiring;

139 (ii) terms of employment;

140 (iii) benefits;

141 (iv) seniority status;

142 (v) tenure;

143 (vi) promotion;

144 (vii) transfer; or

145 (viii) appointment; or

146 (b) admissions and aid, including:

147 (i) admission to any state program or course;

148 (ii) financial or other forms of state-administered aid or assistance; and

149 (iii) other benefits from the governmental employer for which a person is eligible.

150 (3) A governmental employer may not grant any form of preferential consideration to a
151 person who, without solicitation from the governmental employer, provides a prohibited
152 submission for any action described in Subsection (2).

153 (4) If federal law requires a governmental employer to accept a prohibited ~~H→~~ **[statement]**
153a **submission** ~~←H~~ ,
154 the governmental employer:

155 (a) may accept the prohibited ~~H→~~ **[statement]** **submission** ~~←H~~ only to the extent required
155a under federal law;

156 and

157 (b) shall limit consideration of the information contained in the prohibited ~~H→~~ **[statement]**
157a **submission** ~~←H~~ to
158 the extent necessary to satisfy the requirement under federal law.

159 (5) Nothing in this section prohibits a governmental employer from:

160 (a) requiring compliance with state or federal laws and regulations, including those
161 relating to prohibited discrimination or harassment; or

162 (b) enforcing state or federal laws and regulations, including those relating to
163 prohibited discrimination or harassment.