

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



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53B-27-502** is enacted to read:

53B-27-502. Prohibition on use of certain submissions in higher education --

Exceptions.

(1) (a) As used in this section, "prohibited submission" means a submission, statement, or document that requires a person to articulate the person's personal beliefs or position on a policy or initiative that promotes differential treatment based on race, color, ethnicity, sex, national origin, or age.

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

(i) diversity, equity, and inclusion;

(ii) anti-racism;

(iii) implicit bias; or

(iv) critical race theory.

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

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

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

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

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) seniority status;

(v) tenure;

(vi) promotion;

(vii) transfer; or

(viii) appointment;

(b) admission to or graduation from the institution or an academic program; or

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

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

(4) If federal law requires an institution to accept a prohibited statement, the institution:

(a) may accept the prohibited statement only to the extent required under federal law;
and

(b) shall limit consideration of the information contained in the prohibited statement to the extent necessary to satisfy the requirement under federal law.

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

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

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

Exceptions.

(1) (a) As used in this section, "prohibited submission" means a submission, statement, or document that requires a person to articulate the person's position on a policy or initiative that promotes differential treatment based on race, color, ethnicity, sex, national origin, or age.

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

(i) diversity, equity, and inclusion;

(ii) anti-racism;

(iii) implicit bias; or

(iv) critical race theory.

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

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

(ii) the submission, statement, or document relates to a bona fide occupational 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 statement,
105 the LEA or district school:

106 (a) may accept the prohibited statement only to the extent required under federal law;
107 and

108 (b) shall limit consideration of the information contained in the prohibited statement 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,

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

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

(b) (i) "Prohibited submission" means a submission, statement, or document that requires a person to articulate the person's position on a policy or initiative that promotes differential treatment based on race, color, ethnicity, sex, national origin, or age.

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

(A) diversity, equity, and inclusion;

(B) anti-racism;

(C) implicit bias; or

(D) critical race theory.

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

(A) the job title for the position includes a phrase listed in Subsections (1)(b)(ii)(A) through (D); and

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

(2) A governmental employer may not request a prohibited submission to take action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) seniority status;

(v) tenure;

(vi) promotion;

(vii) transfer; or

(viii) appointment; or

(b) admissions and aid, including:

(i) admission to any state program or course;

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

(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 statement,
154 the governmental employer:

155 (a) may accept the prohibited statement only to the extent required under federal law;
156 and

157 (b) shall limit consideration of the information contained in the prohibited statement 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.