

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1196
102ND GENERAL ASSEMBLY

2452H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 173, RSMo, by adding thereto two new sections relating to prohibiting ideological discrimination in postsecondary education.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 173, RSMo, is amended by adding thereto two new sections, to be known as sections 173.2176 and 173.2177, to read as follows:

173.2176. 1. As used in this section and section 173.2177, the following terms mean:

(1) "Applicant", an individual or entity that applies to an institution for employment, admission, or as a potential contractor;

(2) "Contractor", an individual or entity engaged by an institution for the purpose of providing goods or services to such institution but that is not an employee of such institution;

(3) "Discriminatory ideology", an ideology that promotes the differential treatment of any individual or group of individuals based on race, color, religion, sex, gender, sexuality, ethnicity, national origin, or ancestry;

(4) "Diversity, equity, and inclusion statement", a written or oral communication relating to the applicant's, employee's, student's, or contractor's:

(a) Race, color, religion, sex, gender, sexuality, ethnicity, national origin, or ancestry, except when necessary to record required demographic information of such individual;

(b) Views on, experience with, or past or planned contributions to efforts involving:

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **a. Diversity, equity, inclusion, and belonging, which includes any administrative,**
19 **ideological, or programmatic effort or perspective that requires applicants to promote**
20 **or support the idea that disparities are necessarily tied to oppression, involves collective**
21 **guilt ideologies, and emphasizes the importance of activism and structural reforms**
22 **based upon intersectional, divisive, or political identities;**

23 **b. Marginalized groups;**

24 **c. Antiracism;**

25 **d. Social justice;**

26 **e. Intersectionality; or**

27 **f. Related concepts; or**

28 **(c) Views on or experience with race, color, religion, sex, gender, sexuality,**
29 **ethnicity, national origin, ancestry, or other immutable characteristics of students and**
30 **coworkers;**

31 **(5) "Employee", an individual employed by an institution;**

32 **(6) "Entity", a corporation, partnership, limited liability company, business**
33 **trust, trust, association, other organization, other legal entity, or a protected series or**
34 **registered series of a domestic limited liability company;**

35 **(7) "Institution", any public institution of postsecondary education in this state**
36 **that is subject to the coordinating board for higher education under section 173.005;**

37 **(8) "Preferential consideration", any act that positively impacts an individual's**
38 **or entity's admission to, employment with, engagement as a contractor by, or promotion**
39 **within an institution including, but not limited to:**

40 **(a) Applications for admissions, aid, assistance, and benefits for which the**
41 **individual or entity is eligible; and**

42 **(b) Employment terms, benefits, seniority status, promotions, transfers, and**
43 **appointments for which the individual or entity is eligible;**

44 **(9) "Student", an individual enrolled as a student at an institution.**

45 **2. No institution shall:**

46 **(1) Compel, require, induce, or solicit any applicant, employee, student, or**
47 **contractor to endorse any discriminatory ideology;**

48 **(2) Compel, require, induce, or solicit any applicant, employee, student, or**
49 **contractor to submit a diversity, equity, and inclusion statement; or**

50 **(3) Provide preferential consideration to any applicant, employee, student, or**
51 **contractor on the basis of such individual's or entity's submission of an unsolicited**
52 **statement relating to a discriminatory ideology.**

53 **3. No provision of this section shall be construed to:**

54 **(1) Restrict academic research or coursework;**

55 **(2) Prevent an institution from requiring an applicant to:**

56 **(a) Disclose or discuss the content of such applicant's research or artistic**
57 **creations;**

58 **(b) Certify compliance with state and federal antidiscrimination law;**

59 **(c) Discuss pedagogical approaches or experience with students with learning**
60 **disabilities; or**

61 **(d) Discuss curriculum or content of a proposed class or an applicant's previous**
62 **academic experience; or**

63 **(3) Prevent an applicant or candidate from providing, on such applicant's or**
64 **candidate's own initiative and under no specific requirement or request from the**
65 **institution, any information described in subsection 2 or 3 of this section.**

66 **4. (1) An applicant, employee, student, or contractor who is compelled,**
67 **required, induced, or solicited to endorse a discriminatory ideology or submit a**
68 **diversity, equity, and inclusion statement or who is adversely affected by an institution's**
69 **preferential consideration of another for such individual's or entity's unsolicited**
70 **statement relating to a discriminatory ideology in violation of subsection 2 or 3 of this**
71 **section may pursue an action for injunctive or declaratory relief against such institution.**

72 **(2) An injunction granted under this subsection in favor of an applicant,**
73 **employee, student, or contractor against an institution because of a violation of**
74 **subsection 2 or 3 of this section may include an order requiring the institution to:**

75 **(a) Admit the applicant for enrollment as a student;**

76 **(b) Reenroll a student who was suspended or expelled;**

77 **(c) Hire an individual for the position for which such individual's employment**
78 **application was rejected;**

79 **(d) Rehire in the same or equal position an employee who was dispossessed of**
80 **such employee's job;**

81 **(e) Promote an employee who was denied a promotion; or**

82 **(f) Provide tenure to an employee who was denied tenure.**

83 **(3) All claims of sovereign or governmental immunity for an institution relating**
84 **to claims filed under this subsection against such institution are hereby waived.**

85 **(4) Notwithstanding any other provision of law to the contrary, an individual or**
86 **entity may commence an action under this subsection and relief may be granted**
87 **regardless of whether such individual or entity seeks or exhausts other available**
88 **administrative or legal remedies.**

89 **(5) The court may award reasonable attorney's fees and court costs to the**
90 **prevailing party.**

91 **5. (1) Any employee, whether tenured, employed at-will, or working under a**
92 **contract, who violates this subsection shall be disciplined by the employee's employer**
93 **for the reasons and in the manner provided under subdivisions (2) and (3) of this**
94 **subsection.**

95 **(2) An employer shall discipline an employee described in subdivision (1) of this**
96 **subsection as provided in subdivision (3) of this subsection if such employee is found to**
97 **have:**

98 **(a) Compelled, required, or induced an applicant, employee, student, or**
99 **contractor to endorse a discriminatory ideology or provide a diversity, equity, and**
100 **inclusion statement; or**

101 **(b) Provided preferential consideration to an applicant, employee, student, or**
102 **contractor on the basis of such individual's or entity's submission of an unsolicited**
103 **statement relating to a discriminatory ideology.**

173.2177. 1. By July 1, 2024, each institution shall develop a policy for
2 **compliance with the provisions of section 173.2176. Such policy shall include**
3 **disciplinary measures for an employee who violates the provisions of such section.**

4 **2. Beginning July 1, 2025, and each year thereafter, each institution's office of**
5 **general counsel or substantially equivalent office shall annually submit to the joint**
6 **committee on higher education a written report on compliance with section 173.2176**
7 **that includes, at a minimum, the following:**

8 **(1) The institution's policy described in subsection 1 of this section;**

9 **(2) A description of all violations of such policy by an employee of the institution;**

10 **and**

11 **(3) The disciplinary action taken against the employee.**

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