



State of Tennessee

PUBLIC CHAPTER NO. 268

SENATE BILL NO. 817

By Hensley, Bowling, Briggs, Rose

Substituted for: House Bill No. 1376

By Ragan, Fritts, Tim Hicks, Slater, Hawk, Barrett, Lafferty, Capley, Butler, Eldridge, Grills, Richey, Sherrell, Cochran, Todd, Moody, Doggett, Howell, Powers, Zachary

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7 and Title 49, Chapter 8, relative to higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Tennessee Higher Education Freedom of Expression and Transparency Act."

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 7, Part 19, is amended by designating Section 49-7-1907 as Section 49-7-1908 and adding the following as a new Section 49-7-1907:

(a) The general assembly finds that:

(1) Freedom of expression and inquiry at public institutions of higher education are indispensable to the pursuit of educational excellence and the furtherance of the ordered individual liberty established in our nation's founding documents;

(2) Public institutions of higher education have a duty to promote and defend freedom of expression and inquiry, and educate students on the individual liberties established in our nation's founding documents;

(3) Public institutions of higher education should seek and foster intellectual diversity among administrators, faculty, students, and employees;

(4) Positively or negatively incentivizing, informally pressuring, indoctrinating, or otherwise compelling students or employees of a public institution of higher education to embrace divisive concepts is contrary to the mutual respect and collegial processes essential to the free exchange of ideas;

(5) Measures taken to ensure non-discrimination cannot be allowed to undermine the principles of merit and excellence in the core activities of public institutions of higher education;

(6) Institutional transparency and the implementation of § 49-7-1903 will help limit the potential risk of diminished excellence from our great institutions; and

(7) Public medical institutions of higher education best serve the state when providing meritorious education and training that positions future healthcare professionals to serve all patients adequately and to the best of their ability.

(b) A student or employee of a public institution of higher education who believes that a violation of § 49-7-1903 has occurred may file a report of the alleged violation with the institution. The institution shall investigate the report and take appropriate steps to correct any violation that is found to have occurred. Institutions shall report violations and any corrective action annually to the comptroller of the treasury through the comptroller's office of research and education accountability. A report submitted to the comptroller must be

redacted, if necessary, to ensure compliance with the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g); § 10-7-504; and all other relevant privacy laws.

(c)(1) Subject to appropriate constitutional time, place, and manner restrictions in accordance with applicable law, for purposes of approving or scheduling usage of the institution's property, an institution shall not show bias or favoritism for or against:

(A) A student group that is peaceful and requests to use the institution's property in a peaceful and lawful manner;

(B) A guest speaker's, or a guest speaker's student-sponsoring group's, viewpoint, race, creed, color, religion, non-violent political ideology, or non-violent political party affiliation; or

(C) A student group that, or a guest speaker who, intends to maintain a peaceful campus presence and peaceful use of the institution's property on grounds that the institution has received threatened simple breaches of the peace or non-destructive disruptions from groups or individuals who oppose the student group's or guest speaker's presence on campus.

(2) A public institution of higher education shall not:

(A) Require a student group to pay fees or security deposits that are not charged to all other student groups; or

(B) Deny a student group access to the institution's property if the property is routinely used by other student groups.

(3) Notwithstanding subdivision (c)(1), a public institution of higher education may restrict or deny use of the institution's property for public displays, organized public gatherings, or public demonstrations if the display, gathering, or demonstration would violate § 39-17-902 or § 49-7-2405.

SECTION 3. Tennessee Code Annotated, Section 49-7-1903, is amended by designating subdivision (3) as (4) and adding the following as subdivision (3):

(3) A public institution of higher education shall not require an applicant for employment or admission to submit a personal diversity statement or to affirm the applicant's agreement with an institutional diversity statement as part of the application or admissions process.

SECTION 4. Tennessee Code Annotated, Section 49-7-1904(a), is amended by adding the following as a new subdivision:

(4) Approve or use state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization if participation in such organization requires an individual, or an individual's employer, to endorse or promote a divisive concept.

SECTION 5. Tennessee Code Annotated, Section 49-7-1904, is amended by deleting subsection (b) and adding the following as new subsections:

(b)(1) If a public institution of higher education employs an individual whose primary job title includes diversity, equity, or inclusion, then:

(A) The institution must ensure that the employee's efforts strengthen and increase intellectual diversity and promote a climate that facilitates the free and respectful exchange of ideas; and

(B) The institution must ensure that the employee's duties include efforts devoted to supporting student academic achievement and workforce readiness, such as mentoring, career readiness and support, workforce development, or other related learning support activities necessary for the academic and professional success of all students.

(2) Employees whose job title includes diversity, equity, or inclusion but whose primary duties require compliance with state or federal law that conflicts with subdivision (b)(1) are exempt from this subsection (b).

(c) Each public institution of higher education shall ensure that the institution complies with subsection (b). The institution shall submit a report directly to the institution's chief executive on how the institution is complying with subdivision (b)(1). If the institution is part of a university system, then the report must be submitted to the system's chief executive for review after the report is submitted to the institution's chief executive.


(d)(1) A public institution of higher education shall notify students and employees of the institution on the restrictions in § 49-7-1903 and the definition of divisive concepts in § 49-7-1904 by including such information on the institution's website and on introductory materials provided by the institution to new students and employees.

(2) Institutions shall provide employee training to ensure compliance with this part.

SECTION 6. This act takes effect July 1, 2023, the public welfare requiring it.

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PASSED: April 13, 2023



RANDY McNALLY
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of April 2023



BILL LEE, GOVERNOR