

**SUBJECT:** Prohibiting certain DEI practices in Texas public universities

**COMMITTEE:** Higher Education — committee substitute recommended

**VOTE:** 6 ayes — Kuempel, Paul, Burns, Burrows, Clardy, Raney  
5 nays — Bucy, Cole, M. González, Howard, Lalani

**SENATE VOTE:** On final passage (April 19) — 19 - 12

**WITNESSES:** For —Richard Johnson, Texas Public Policy Foundation; Daniel Bonevac; Adam Kolasinski (*Registered, but did not testify*: Cindi Castilla, Texas Eagle Forum; and 22 individuals)

Against —Joslynn Sanchez, Deeds Not Words; Ricardo Martinez, EQTX Equality Texas; Steve Kemgang, Intercultural Research Development Association; Antonio Ingram, Allen Liu, NAACP Legal Defense Fund; Nathan Alexander, People of Prairie View Texas and Alpha Phi Alpha Fraternity Inc.; David Albert, Texas AFT / ACC AFT; Trevor Hale, Texas Council of Faculty Senates; Pat Heintzelman, Texas Faculty Association; Chloe Latham Sikes, Texas Legislative Education Equity Coalition; Kyle Rable, Texas State Employees Union; Anne Lewis, Texas State Employees Union CWA 6186; and 57 individuals (*Registered, but did not testify*: Andrew Hendrickson, ACLU of Texas; Courtney Toretto, Anti-Defamation League; Garrett Chase, ASHwell; Alice Yi, Asian Texans for Justice; Maggie Stern, Children's Defense Fund - Texas; Iliana Flores-DuMond, Childrens Defense Fund Texas; Garry Jones, DFER TX; Kimberly Clarida, Jaime Puente, Every Texan; Ana O'Quin, Girls Empowerment Network; Nicholas Ramsey, Human Rights Campaign; Angela Hale, McKinney Chamber of Commerce; Pedro Ortiz, Mexican American School Boards Association; Bryan Mares, National Association of Social Workers-Texas; Jeremiah Baldwin, Phi Beta Sigma; Julio Florez, Regional Hispanic Contractors Association; Corinna Whiteaker-Lewis, San Gabriel Unitarian Universalist Fellowship; Emily Amps, Texas AFL-CIO; Eli Melendrez, Texas American Federation of Teachers; Amanda Afifi, Texas Association of School Psychologists; Angela Hale,

Texas Competes Action; Emerald Belmarez, Texas Freedom Network; Joshua Houston, Texas Impact; Clayton Travis, Texas Pediatric Society; Veronica Costilla, Texas Rising; Emily Villarreal Islas, Texas Rising - UHD; Maggie DiSanza, Texas Rising Action; Corisha Rogers, Texas Rising and Texas Freedom Network; Lonzo Kerr, Texas State Conference of NAACP; Tyler Sheldon, Texas State Employees Union; Katherine Schmader, Travis County Democratic Party; Nicole Ma, Quynh-Huong Nguyen, Steven Wu, Woori Juntos; Kasey Corpus, Naomi Cruz, Young Invincibles; and 149 individuals)

On — James Hallmark, Texas A&M University System; Jenna Doane, Texas Center for Education Policy; Brian McCall, Texas State University System; Tedd Mitchell, Texas Tech University System; Ashley Tang, Texas Woman's University; Carine Feyten, Texas Woman's University System; Michael Williams, UNT System; LaToya Smith, UT at Austin

**BACKGROUND:** Some have suggested that prohibiting public institutions of higher education from establishing or maintaining DEI offices or requiring related training would prevent certain diversity, equity, and inclusion practices in Texas universities that may be polarizing.

**DIGEST:** CSSB 17 would require a higher education institution to be committed to creating an environment of intellectual inquiry and academic freedom so that all students were equipped for workforce participation and the betterment of society. An institution also would be required to be committed to creating an environment of intellectual diversity so that all students were respected and educated regardless of race, sex, or ethnicity or social, political, or religious background or belief.

The bill would define a “diversity, equity, and inclusion (DEI) office” as an office, division, or other unit of a higher education institution established for the purpose of:

- engaging in hiring or employment practices that gave preferential treatment on the basis of race, sex, color, or ethnicity, other than through the use of certain nondiscriminatory hiring processes;

- providing differential treatment to individuals on the basis of race, sex, color, or ethnicity;
- implementing policies or procedures that gave preferential treatment on the basis of race, sex, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel for the purpose of ensuring compliance with an applicable court order or state or federal law; or
- conducting trainings, programs, or activities that advocated for or gave preferential treatment on the basis of race, sex, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the institution's general counsel for the purpose of ensuring compliance with an applicable court order or state or federal law.

A higher education institution's governing board would be required to ensure that, with certain exceptions, each unit of the institution did not:

- establish or maintain a DEI office;
- hire or assign an employee or contract with a third party to perform DEI office duties;
- compel, require, induce, or solicit any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement;
- give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any institution function; or
- require as a condition of enrolling at the institution or performing any institution function any person to participate in DEI training.

These provisions could not be construed to apply to:

- academic course instruction;
- scholarly research or creative works by an institution's students, faculty, or other research personnel or the dissemination of that research or work;

- activities of a student organization registered with or recognized by the institution;
- short-term guest speakers or performers;
- certain programs or activities to enhance student academic achievement or postgraduate outcomes that allow participation without regard to race, sex, color, or ethnicity;
- data collection; or
- student recruitment or admissions.

A higher education institution's governing board also would be required to ensure that each unit of the institution adopted policies and procedures for appropriately disciplining an employee or contractor who engaged in conduct that violated the bill.

The bill would allow an institution's governing board to approve the institution's implementation of certain DEI programs if the governing board determined that the program otherwise complied with applicable state and federal law and was necessary for the institution to comply with certain grant or contract terms or the standards or requirements of the institution's accrediting agency.

The bill would prohibit an institution from spending money appropriated to the institution for a fiscal year until the institution's governing board submitted a report certifying the board's compliance with the bill during the preceding fiscal year to the Legislature and the Texas Higher Education Coordinating Board. This provision would apply beginning with money appropriated to a public higher education institution for the fiscal year beginning September 1, 2024.

In the interim between each regular session of the Legislature, the governing board of each institution or the board's designee would be required to testify before the relevant legislative committees regarding the board's compliance with the bill.

The bill would apply beginning with the 2023-2024 academic year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.