

House File 616 - Introduced

HOUSE FILE 616
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 218)

A BILL FOR

1 An Act prohibiting institutions of higher learning governed
2 by the state board of regents from expending moneys to
3 fund diversity, equity, and inclusion offices or to hire
4 individuals to serve as diversity, equity, and inclusion
5 officers, creating a private cause of action, and including
6 effective date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 261J.1 Definitions.

2 As used in this chapter:

3 1. "*Diversity, equity, and inclusion*" includes all of the
4 following:

5 a. Any effort to manipulate or otherwise influence the
6 composition of the faculty or student body with reference to
7 race, sex, color, or ethnicity, apart from ensuring colorblind
8 and sex-neutral admissions and hiring in accordance with state
9 and federal anti-discrimination laws.

10 b. Any effort to promote differential treatment of or
11 provide special benefits to individuals on the basis of race,
12 color, or ethnicity.

13 c. Any effort to promote or promulgate policies and
14 procedures designed or implemented with reference to race,
15 color, or ethnicity.

16 d. Any effort to promote or promulgate trainings,
17 programming, or activities designed or implemented with
18 reference to race, color, ethnicity, gender identity, or sexual
19 orientation.

20 e. Any effort to promote, as the official position of
21 the public institution of higher education, a particular,
22 widely contested opinion referencing unconscious or implicit
23 bias, cultural appropriation, allyship, transgender ideology,
24 microaggressions, group marginalization, anti-racism, systemic
25 oppression, social justice, intersectionality, neo-pronouns,
26 heteronormativity, disparate impact, gender theory, racial
27 privilege, sexual privilege, or any related formulation of
28 these concepts.

29 2. "*Diversity, equity, and inclusion office*" means any
30 division, office, center, or other unit of a public institution
31 of higher education that is responsible for creating,
32 developing, designing, implementing, organizing, planning,
33 or promoting policies, programming, training, practices,
34 activities, or procedures related to diversity, equity, and
35 inclusion. "*Diversity, equity, and inclusion office*" does not

1 include any of the following:

2 *a.* An office staffed exclusively by licensed attorneys and
3 paralegal and secretarial support for the licensed attorneys,
4 and certified by the attorney general as operating with the
5 sole and exclusive mission of ensuring legal compliance with
6 the public institution of higher education's obligations under
7 Tit. IX of the federal Education Amendments Act of 1972, 20
8 U.S.C. §1681 et seq., as amended, the federal Americans with
9 Disabilities Act of 1990, 42 U.S.C. §12101 et seq., as amended,
10 the federal Age Discrimination in Employment Act of 1967, 29
11 U.S.C. §621 et seq., as amended, the federal Civil Rights
12 Act of 1964, Pub. L. No. 88-352, as amended, or any other
13 applicable federal or state law or a court order.

14 *b.* An academic department within a public institution of
15 higher education that exists primarily for the purpose of
16 offering courses for degree credit and that does not establish
17 a policy or procedures to which other departments of the public
18 institution of higher education are subject.

19 *c.* An office solely engaged in new student recruitment.

20 *d.* A registered student organization.

21 *e.* An office that a public institution of higher education
22 is required to maintain pursuant to a contract or agreement
23 with a federal governmental entity.

24 3. "*Diversity, equity, and inclusion officer*" means an
25 individual who is either employed by a public institution of
26 higher education or who is an independent contractor of a
27 public institution of higher education and whose duties include
28 coordinating, creating, developing, designing, implementing,
29 organizing, planning, or promoting policies, programming,
30 training, practices, activities, and procedures relating to
31 diversity, equity, and inclusion. "*Diversity, equity, and*
32 *inclusion officer*" does not include any of the following:

33 *a.* Any employee who is a licensed attorney and whose sole
34 job duties related to diversity, equity, and inclusion are
35 to ensure compliance with the public institution of higher

1 education's obligations under Tit. IX of the federal Education
2 Amendments Act of 1972, 20 U.S.C. §1681 et seq., as amended,
3 the federal Americans with Disabilities Act of 1990, 42 U.S.C.
4 §12101 et seq., as amended, the federal Age Discrimination in
5 Employment Act of 1967, 29 U.S.C. §621 et seq., as amended,
6 the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as
7 amended, or any other applicable federal or state law or a
8 court order.

9 *b.* Any faculty member while engaged in teaching, research,
10 or the production of creative works, the dissemination of the
11 faculty member's research or creative works, or advising a
12 registered student organization.

13 *c.* A guest speaker or performer with a short-term
14 engagement.

15 *d.* Any employee that a public institution of higher
16 education is required to employ pursuant to a contract or
17 agreement with a federal governmental entity.

18 4. "*Gender identity*" means the same as defined in section
19 216.2.

20 5. "*Public institution of higher education*" means an
21 institution of higher learning governed by the state board of
22 regents.

23 6. "*Sexual orientation*" means the same as defined in section
24 216.2.

25 Sec. 2. NEW SECTION. 261J.2 **Restrictions on use of moneys.**

26 1. A public institution of higher education shall not expend
27 any moneys appropriated by the general assembly or any other
28 moneys derived from bequests, charges, deposits, donations,
29 endowments, fees, grants, gifts, income, receipts, tuition,
30 or any other source to establish, sustain, support, or staff
31 a diversity, equity, and inclusion office, or to contract,
32 employ, engage, or hire an individual to serve as a diversity,
33 equity, and inclusion officer.

34 2. Subsection 1 shall not be construed to cover or affect a
35 public institution of higher education's funding of any of the

1 following:

2 *a.* Academic course instruction.

3 *b.* Research or creative works by the public institution
4 of higher education's students, faculty, or other research
5 personnel, and the dissemination of such research or creative
6 works.

7 *c.* Activities of registered student organizations.

8 *d.* Arrangements for guest speakers and performers with
9 short-term engagements.

10 *e.* Mental or physical health services provided by licensed
11 professionals.

12 *f.* Policies, programming, training, practices, activities,
13 or procedures related to diversity, equity, and inclusion that
14 are required pursuant to a contract or agreement with a federal
15 governmental entity.

16 3. Subsection 1 shall not be construed as prohibiting bona
17 fide qualifications based on sex that are reasonably necessary
18 to the normal operation of public higher education.

19 4. *a.* A public institution of higher education shall not
20 expend any moneys appropriated by the general assembly for
21 a fiscal year beginning on or after July 1, 2023, until the
22 public institution of higher education files with the state
23 board of regents a report that discloses all of the following:

24 (1) The steps taken by the public institution of higher
25 education and its staff, administration, and faculty to comply
26 with subsection 1.

27 (2) The amount and job titles of the individuals deemed
28 to be required by the public institution of higher education
29 to comply with Tit. IX of the federal Education Amendments
30 Act of 1972, 20 U.S.C. §1681 et seq., as amended, the federal
31 Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et
32 seq., as amended, the federal Age Discrimination in Employment
33 Act of 1967, 29 U.S.C. §621 et seq., as amended, the federal
34 Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, or
35 any other applicable federal or state law or a court order.

1 *b.* The report described in paragraph “a” shall certify that
2 the public institution of higher education is fully compliant
3 with subsection 1.

4 *c.* The public institution of higher education shall publish
5 the report described in paragraph “a” on the public institution
6 of higher education’s internet page.

7 Sec. 3. NEW SECTION. **261J.3 Enforcement — venue.**

8 1. Any person may notify the attorney general of a public
9 institution of higher education’s potential violation of
10 section 261J.2. The attorney general may bring an action
11 against a public institution of higher education for a writ of
12 mandamus to compel the public institution of higher education
13 to comply with section 261J.2.

14 2. A student enrolled in a public institution of higher
15 education, a faculty member of a public institution of higher
16 education, or an alumnus of a public institution of higher
17 education alleging a violation of section 261J.2 may bring
18 a civil action for injunctive relief against the public
19 institution of higher education to prohibit the public
20 institution of higher education from continuing such violation.

21 3. An action brought under this section may be brought in
22 any of the following:

23 *a.* The county in which all or a substantial part of the
24 events or omissions giving rise to the action occurred.

25 *b.* The county in which the principal office of the public
26 institution of higher education is located.

27 *c.* The county in which the claimant resides, if the claimant
28 is an individual and resides in this state.

29 *d.* The county in which a defendant resides, if the defendant
30 is an individual and resides in this state.

31 Sec. 4. **FY 2022-2023 APPROPRIATIONS — REALLOCATION.**

32 Public institutions of higher education shall reallocate all
33 unexpended moneys appropriated by the general assembly in FY
34 2022-2023 that would have been expended on diversity, equity,
35 and inclusion offices or diversity, equity, and inclusion

1 officers on or after the effective date of this Act to merit
2 scholarships for lower-income and middle-income students and to
3 reduce tuition and mandatory fees for resident students.

4 Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate
5 importance, takes effect upon enactment.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill prohibits institutions of higher learning governed
10 by the state board of regents (public institutions of higher
11 education) from expending moneys to fund diversity, equity, and
12 inclusion offices or to hire individuals to serve as diversity,
13 equity, and inclusion officers.

14 The bill prohibits public institutions of higher education
15 from expending any moneys appropriated by the general assembly
16 or any other moneys derived from bequests, charges, deposits,
17 donations, endowments, fees, grants, gifts, income, receipts,
18 tuition, or any other source to establish, sustain, support,
19 or staff a diversity, equity, and inclusion office, or to
20 contract, employ, engage, or hire an individual to serve as a
21 diversity, equity, and inclusion officer. The bill provides
22 that this prohibition does not affect a public institution of
23 higher education's funding of academic course instruction,
24 research or creative works, activities of registered student
25 organizations, arrangements for guest speakers and performers
26 with short-term engagements, mental or physical health services
27 provided by licensed professionals, or policies or procedures
28 related to diversity, equity, and inclusion that are required
29 pursuant to a contract with a federal governmental entity. The
30 bill also provides that this prohibition shall not be construed
31 as prohibiting bona fide qualifications based on sex that are
32 reasonably necessary to the normal operation of public higher
33 education.

34 The bill prohibits public institutions of higher education
35 from expending any moneys appropriated by the general assembly

1 for a fiscal year beginning on or after July 1, 2023, until
2 the public institution of higher education files with the
3 state board of regents a report that details the institution's
4 compliance with the bill's provisions.

5 The bill authorizes the attorney general to bring an action
6 against a public institution of higher education for a writ of
7 mandamus to compel the public institution of higher education
8 to comply with these prohibitions. The bill also authorizes a
9 student, faculty member, or alumnus of a public institution of
10 higher education alleging a violation of the bill's provisions
11 to bring a civil action for injunctive relief against the
12 public institution of higher education to prohibit the public
13 institution of higher education from continuing such violation.
14 The bill establishes the venue in which such actions may be
15 brought.

16 The bill requires public institutions of higher education to
17 reallocate all unexpended moneys appropriated by the general
18 assembly in FY 2022-2023 that would have been expended on
19 diversity, equity, and inclusion offices or diversity, equity,
20 and inclusion officers on or after the effective date of the
21 bill to merit scholarships for lower-income and middle-income
22 students and to reduce tuition and mandatory fees for resident
23 students.

24 The bill defines "diversity, equity, and inclusion",
25 "diversity, equity, and inclusion office", "diversity, equity,
26 and inclusion officer", "gender identity", "public institution
27 of higher education", and "sexual orientation".

28 The bill takes effect upon enactment.