WEST VIRGINIA CODE: §18B-14-5

§18B-14-5. Equal Treatment in Higher Education Act of 2025.

(a) As used in this section:

(1) "Diversity, equity, and inclusion" means any action, attempt, or effort to:

(A) Influence hiring or employment practices with respect to race, color, sex, ethnicity, or national origin, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal anti-discrimination laws;

(B) Promote or provide special benefits to individuals on the basis of race, color, ethnicity, or national origin;

(C) Promote policies or procedures designed or implemented in reference to race, color, ethnicity, or national origin, other than to ensure compliance with an applicable court order or state or federal law; or

(D) Conduct trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, or national origin, other than trainings, programs, or activities developed for the sole purpose of ensuring compliance with an applicable court order or state or federal law;

(2) "Ethnic group" means a category of population that is set apart and bound together by common ties of race, language, nationality, or culture;

(3) "Race" means any one of the groups that humans are often divided into based on physical traits regarded as common among people of shared ancestry; and

(5) "Sex", when this term is used to classify or describe a natural person, means the state of being either male or female as observed or clinically verified at birth. There are only two sexes, and every individual is either male or female: *Provided*, That individuals with congenital and medically verifiable "DSD conditions" (sometimes referred to as "differences in sex development", "disorders in sex development", or "intersex conditions") are not members of a third sex and must be accommodated consistent with state and federal law.

(b) State institutions of higher education in this state have an obligation to prohibit, among other things, discrimination on the basis of race or ethnic group in the administration of their education programs, activities, or with respect to admission or employment.

(c) State institutions of higher education have an obligation to protect the right to free speech and expression protected by the First Amendment of the United States Constitution, the West Virginia Constitution, and the provisions of §18B-20-1 *et seq*. As part of that commitment, state institutions of higher education must be committed to the principle that

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debate or deliberation may not be suppressed because the ideas put forth are thought by some or even by most members of the university community to be offensive, unwise, immoral, or misguided and that it is for the individual members of the university community, not for the university as an institution, to make those judgements for themselves.

(d) Except as provided in subsection (e) of this section, a state institution of higher education or any employee of a state institution of higher education may not require a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that the following concepts are factual and accurate or must be held as a belief of the student or employee:

(1) One race, ethnic group, or sex is morally, or intellectually superior to another race, ethnic group, or sex for any inherent or innate reason;

(2) An individual, by virtue of the individual's race, ethnicity, or sex, is racist, sexist, or oppressive, whether consciously or unconsciously for any inherent or innate reason;

(3) An individual should be discriminated against because of the individual's race, ethnicity, or sex;

(4) An individual's moral character is strongly influenced by the individual's race, ethnicity, or sex;

(5) An individual, by virtue of the individual's race, ethnicity, or sex, bears responsibility for actions committed by other members of the same race, ethnic group, or sex;

(6) An individual has an obligation to feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual's race, ethnicity, or sex; and

(7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or sexist or were created by members of a particular race, ethnic group, or sex to oppress members of another race, ethnic group, or sex.

(e) Nothing in subsection (d) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course if discussion of alternative theories is also included in the course;

(2) The discussion, examination, and debate that race, ethnicity, or sex has impacted historical or current events, including the causes of those current or historical events; and

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution and the West Virginia Constitution.

(f) Each campus shall report to the Higher Education Policy Commission or the Council for Community and Technical College Education, as applicable, a description of any violations of

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this section. The description shall include the nature of each incident, as well as what disciplinary action, if any, was taken against members of the campus community determined to be responsible for those specific incidents of violation and shall be reported without revealing personally identifiable information annually, by August 1. The commission and council shall then report to the Legislative Oversight Commission on Education Accountability any violations reported to them pursuant to this subsection.

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