WEST VIRGINIA CODE CHAPTER 18B ARTICLE 1G

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§18B-1G-1. Definitions.

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) "Diversity, equity, and inclusion office" means an office, division, or other unity of an institution of higher education tasked with diversity, equity, or inclusion actions, attempts, or efforts;

(3) "Diversity, equity, and inclusion officer" means any officer, employee, or agent of an institution of higher education tasked with diversity, equity, or inclusion actions, attempts, or efforts;

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

(5) "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

(6) "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.

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§18B-1G-2. Restrictions.

(a) A state institution of higher education and each governing board of a state institution of higher education shall ensure that each unit of the institution does not:

(1) Establish, sustain, support, staff, or maintain a diversity, equity, and inclusion officer or office;

(2) Hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office;

(3) Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;

(4) Give preference on the basis of diversity, equity, and inclusion to an applicant for employment, an employee, or a participant in any function of the institution; or

(5) Require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training.

(b) A state institution of higher education and each governing board of a state institution of higher education shall ensure that each unit of the institution shall adopt policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of subsection (a) of this section.

(c) Subsection (a) of this section shall not be construed to cover or affect a state institution of higher education's support of any of the following:

(1) Academic course instruction;

(2) Research or creative works by the state institution of higher education's students, faculty, or other research personnel, and the dissemination of such research or creative works;

(3) Activities of registered student organizations;

(4) Arrangements for guest speakers and performers with short-term engagements;

(5) Mental or physical health services provided by licensed professionals;

(6) Services or support provided to individuals with learning, physical or neurological developmental disabilities;

(7) Policies, programing, training, practices, activities, or procedures designed to prevent

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sexual harassment or to meet accreditation standards;

(8) Data collection;

(9) Sex-based educational opportunities such as science, technology, engineering, and mathematics (STEM) opportunities for women;

(10) Donor-designated scholarships;

(11) Single-sex athletic programs, events, or teams;

(12) Single-sex spaces including restrooms, changing rooms, locker rooms, showers, sleeping quarters, and dorms;

(13) Compliance with the state institution of higher education's obligations under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, West Virginia Code §5-11-1 *et seq.*, or any other applicable federal or state law or court order.

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§18B-1G-3. Exceptions.

(a) "Diversity, equity, and inclusion office" does not include any of the following:

(1) An office or position operating with the sole and exclusive mission of ensuring legal compliance under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, West Virginia Code §5-11-1 *et seq.*, or any other applicable federal or state law or court order;

(2) An academic department within a state institution of higher education that exists primarily for the purpose of offering courses for degree credit and that does not establish a policy or procedures to which other departments of the public institutions of higher education are subject;

(3) A registered student organization;

(4) An office or position engaged in providing services or support to individuals with learning, physical or neurological developmental disabilities; or

(5) A unit which may provide resources to certain individuals as long as the resources are equally available to all employees or students regardless of race, color, or ethnicity.

(b) "Diversity, equity, and inclusion officer" does not include any of the following:

(1) Any employee whose sole job duties are to ensure compliance with the state institution of higher education's obligations under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 *et seq.*, as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West Virginia Human Rights Act, West Virginia Code §5-11-1 *et seq.*, or any other applicable federal or state law or court order;

(2) Any faculty member while engaged in teaching, research, or the production of creative works, the dissemination of the faculty member's research or creative works, or advising a registered student organization; or

(3) A guest speaker or performer with a short-term engagement.

(c) Nothing in this article may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

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Highlights the institution's work in supporting:

(A) First-generation college students;

(B) Low-income students; or

(C) Underserved student populations.

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§18B-1G-4. Reporting.

(a) A state institution of higher education shall file and certify with the Joint Committee on Education a report of the steps taken by the academic institution of higher education and its staff, administration, and faculty to comply with this article.

(b) The state institution of higher education shall publish the report described in subsection (a) of this section on the institution of higher education's webpage.

(c) The state institution of higher education shall file the report described in subsection (a) of this section by July 1, 2025, and on July 1 of each year thereafter, or the state institution of higher education shall not be permitted to expend any moneys appropriated by the Legislature for the next fiscal year.

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§18B-1G-5. Spending.

A state institution of higher education shall reallocate any and all unexpended moneys appropriated by the Legislature in fiscal year 2025-2026 that would have been expended on prohibited diversity, equity, and inclusion offices and officers on or after the effective date of this article to merit scholarships for lower-income and middle-income students, first generation college students, or to reduce tuition and mandatory fees for resident students.

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