

IN THE SENATE

SENATE BILL NO. 1048

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HIGHER EDUCATION; PROVIDING LEGISLATIVE FINDINGS AND INTENT;
2 AMENDING CHAPTER 59, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW
3 SECTION 67-5909D, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT DIVERSITY,
4 EQUITY, AND INCLUSION OFFICES AND OFFICERS AT INSTITUTIONS OF HIGHER
5 EDUCATION, TO PROVIDE AN ALTERNATIVE USE FOR CERTAIN FUNDS, TO PROHIBIT
6 DIVERSITY TRAININGS, TO PROHIBIT BIAS REPORTING SYSTEMS, TO PROHIBIT
7 CERTAIN REQUIRED COURSES, TO PROVIDE FOR EXEMPTIONS FROM CERTAIN RE-
8 QUIREMENTS, TO REQUIRE CERTAIN REPORTS, TO PROVIDE THE ATTORNEY GENERAL
9 WITH CERTAIN ENFORCEMENT AUTHORITY, TO PROVIDE FOR A PRIVATE CAUSE
10 OF ACTION, AND TO PROVIDE LIMITATIONS; PROVIDING SEVERABILITY; AND
11 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
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13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Legislature finds that
15 this state was founded upon the fundamental truth that all men are created
16 equal and endowed with inalienable rights. Among these rights is the freedom
17 of inquiry, which along with the principle of liberal toleration is essen-
18 tial to the advancement and diffusion of knowledge. The constitution of this
19 state also declares that the stability of a republican form of government de-
20 pends mainly upon the intelligence of the people. In contravention of these
21 principles, a subversive ideology derived from the tenets of critical the-
22 ory has infected the administration of this state's system of higher educa-
23 tion, promoting a culture of division, ignorance, bigotry, and intolerance.
24 Therefore, it is the intent of the Legislature to eliminate all programs and
25 initiatives within all public institutions of higher education predicated
26 on the tenets of critical theory, or more commonly known under the title of
27 "diversity, equity, and inclusion."

28 SECTION 2. That Chapter 59, Title 67, Idaho Code, be, and the same is
29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
30 ignated as Section 67-5909D, Idaho Code, and to read as follows:

31 67-5909D. FREEDOM OF INQUIRY IN HIGHER EDUCATION. (1) For the purpose
32 of this section:

33 (a) "Bias reporting system" means any office, department, position, or
34 system whose function is to:

35 (i) Investigate, threaten disciplinary action, or otherwise pun-
36 ish enrolled students for expressions of speech protected by state
37 or federal law, including but not limited to speech pertaining to
38 disagreements of opinion, political beliefs or affiliations, or
39 perceived bias, prejudice, stereotypes, or intolerance; or

40 (ii) Solicit the reporting of incidents of student speech pro-
41 tected by state or federal law, including but not limited to speech

1 pertaining to disagreements of opinion, political beliefs or af-
2 filiations, or perceived bias, prejudice, stereotypes, or intoler-
3 erance.

4 (b) (i) "Diversity, equity, and inclusion" or "DEI" means any
5 trainings, programs, activities, or instruction designed or im-
6 plemented in accordance with the tenets or concepts of critical
7 theory, including but not limited to the concepts of unconscious
8 or implicit bias, microaggressions, internalized racism, cul-
9 tural appropriation, structural equity, settler colonialism,
10 group marginalization, antiracism, systemic oppression, so-
11 cial justice, institutional or systemic racism, white fragility,
12 racial privilege, disparate impact, intersectionality, sexual
13 privilege, patriarchy, gender theory, queer theory, neopronouns,
14 transgender ideology, misgendering, othering, deadnaming, het-
15 eronormativity, allyship, or any other related formulation of
16 these tenets or concepts. This definition shall also include any
17 program, decision-making process, or initiative established for
18 the purpose of:

19 1. Influencing hiring or employment practices at the in-
20 stitution of higher education with respect to race, color,
21 ethnicity, sex, disability, or religion, other than through
22 the use of color-blind and sex-neutral hiring processes in
23 accordance with any applicable state and federal anti-dis-
24 crimination laws;

25 2. Promoting differential treatment of, or providing spe-
26 cial benefit to, individuals on the basis of race, color,
27 ethnicity, sex, disability, or religion; or

28 3. Promoting policies or procedures designed or implemented
29 to provide preferential treatment with respect to race,
30 color, ethnicity, sex, disability or religion other than
31 policies or procedures approved in writing by the institu-
32 tion of higher education's legal counsel and the attorney
33 general of the state of Idaho for the sole purpose of ensur-
34 ing compliance with any applicable court order or state or
35 federal law.

36 (ii) This excludes trainings, programs, or activities developed
37 by an attorney and approved in writing by the institution of higher
38 education's general counsel and the attorney general of the state
39 of Idaho for the sole purpose of ensuring compliance with any ap-
40 plicable court order or state or federal law.

41 (c) (i) "Diversity, equity, or inclusion office" means any divi-
42 sion, office, center, or other unit of an institution of higher
43 education that is responsible for creating, developing, design-
44 ing, implementing, organizing, planning, or promoting policies,
45 programming, training, practices, activities, services, or pro-
46 cedures relating to diversity, equity, and inclusion.

47 (ii) "Diversity, equity, and inclusion office" shall not include:
48 1. An office certified by the attorney general of the state
49 of Idaho as operating with the sole and exclusive mission of
50 ensuring legal compliance with the institution of higher ed-

1 ucation's obligations under title IX of the education amend-
2 ments of 1972, the federal Americans with disabilities act,
3 the federal age discrimination in employment act, title VI
4 of the federal civil rights act of 1964, an applicable court
5 order, or other applicable state or federal law;

6 2. An academic department defined as a unit of an institu-
7 tion of higher education that exists primarily for the pur-
8 pose of offering courses for degree credit and that does not
9 establish policies or procedures to which other units of the
10 institution of higher education are subject; or

11 3. A student organization that is registered with the insti-
12 tution of higher education.

13 (d) (i) "Diversity, equity, and inclusion officer" means an in-
14 dividual whose duties for the institution include coordinating,
15 creating, developing, designing, implementing, organizing, plan-
16 ning, or promoting policies, programming, training, practices,
17 activities, or procedures relating to diversity, equity, and
18 inclusion and who is a full-time or part-time employee of an in-
19 stitution of higher education or subdivision or affiliated entity
20 thereof or an independent contractor of an institution of higher
21 education.

22 (ii) "Diversity, equity, and inclusion officer" shall not in-
23 clude:

24 1. Any full-time or part-time employee who is a licensed at-
25 torney and whose sole job duties related to diversity, eq-
26 uity, and inclusion are to ensure compliance with the insti-
27 tution of higher education's obligations under title IX of
28 the education amendments of 1972, the federal Americans with
29 disabilities act, the federal age discrimination in employ-
30 ment act, title VI of the federal civil rights act of 1964,
31 applicable court orders, or other applicable state and fed-
32 eral law;

33 2. Any faculty member while such faculty member is teaching,
34 engaged in research, engaged in the production of creative
35 works, engaged in the dissemination of research or creative
36 works, or advising a registered student organization; or

37 3. Guest speakers or performers who do not receive any form
38 of compensation in exchange for their presentation, perfor-
39 mance, or appearance.

40 (e) (i) "Diversity training" means a training, seminar, discus-
41 sion group, workshop, or other instructional program, whether
42 provided in-person, online or by any other means, with a purpose of
43 advising, counseling, demonstrating, explaining, instructing, or
44 teaching participants about diversity, equity, and inclusion.

45 (ii) "Diversity training" shall not include an academic course
46 offered for credit and not otherwise subject to subsection (2) (f)
47 or (2) (g) of this section, nor shall it include activities of a
48 student organization registered with an institution of higher ed-
49 ucation that effects only the members of such organization.

1 (iii) "Diversity training" does not limit or prohibit an institu-
2 tion of higher education's authority to establish policies that
3 are necessary to comply with state or federal law, including laws
4 relating to prohibited discrimination or harassment.

5 (f) "DEI-related course" means a course of instruction taken for credit
6 whose subject matter or pedagogical methodology is based on or other-
7 wise utilizes any of the concepts of critical theory or DEI described in
8 this section.

9 (g) "Institution of higher education" means the following entities
10 that are accredited by the northwest commission on colleges and uni-
11 versities or another accrediting body recognized by the state board of
12 education:

13 (i) Any public institution of higher education or subdivision or
14 affiliated entity thereof that receives funding appropriated by
15 the Idaho legislature; or

16 (ii) Any subdivision or affiliated entity of a private univer-
17 sity, college, or community college in Idaho that receives funding
18 appropriated by the Idaho legislature.

19 (h) "Public institution of higher education" means any public univer-
20 sity, public college, public career technical school, or public commu-
21 nity college located in the state of Idaho.

22 (2) No institution of higher education in the state of Idaho, or any em-
23 ployee, appointee, or committee acting on behalf of an institution of higher
24 education, shall:

25 (a) Discriminate against or provide preferential treatment to a
26 prospective student on account of such prospective student's race, sex,
27 color, ethnicity, or national origin during the admissions process to
28 determine such prospective student's acceptance into the institution
29 or a program of study;

30 (b) Discriminate against or provide preferential treatment to a
31 prospective employee on account of such prospective employee's race,
32 sex, color, ethnicity, or national origin during the hiring process;

33 (c) Establish, sustain, support, or staff a diversity, equity, and in-
34 clusion office or department; or contract, employ, engage, or hire an
35 individual to serve as a diversity, equity, and inclusion officer or
36 consultant. Any funds that would otherwise have been expended on di-
37 versity, equity, and inclusion offices or diversity, equity, and inclu-
38 sion officers in fiscal year 2026 may be reallocated, at the discretion
39 of the governing board of the institution of higher education, to merit
40 scholarships designed to reduce tuition for in-state students;

41 (d) Either directly or indirectly organize, administer, conduct, pro-
42 mote, or sponsor diversity training;

43 (e) Establish, sustain, support, or staff any bias reporting system;

44 (f) Establish curricula or designate courses at the institution in
45 a manner that requires or otherwise compels a student to enroll in a
46 DEI-related course in order to satisfy the requirements of any aca-
47 demic degree program, including general education, major, minor, or
48 certificate requirements, except as provided in subsection (3) of this
49 section; or

1 (g) Require, solicit, or incentivize faculty to apply or participate in
2 DEI practices or include DEI-related content in any course as a condi-
3 tion of approval, designation, or listing as part of any academic degree
4 program, including general education, major, minor, or certificate re-
5 quirements, or as a condition of consideration in any faculty member's
6 performance assessment, promotion, tenure, salary adjustment, or any
7 other incentive, except as provided in subsection (3) of this section.

8 (3) Every institution of higher education in the state of Idaho shall
9 provide a procedure to allow the governing board of the institution of higher
10 education to exempt, upon written request to the board, any academic degree
11 program requirements of any major, minor, certificate, or department the ti-
12 tle of which clearly establishes its course of study as primarily focused
13 on racial, ethnic, or gender studies from the prohibitions of subsections
14 (2) (f) and (2) (g) of this section, provided that a student may not be re-
15 quired or otherwise compelled to enroll in any such program, department, or
16 course in order to satisfy the requirements of any other academic degree pro-
17 gram, including general education requirements, or any other major, minor,
18 or certificate requirements.

19 (4) (a) Every public institution of higher education shall on or before
20 January 15 of each year, submit an annual report to the attorney gen-
21 eral and the education committees of both the house of representatives
22 and the senate signed by the president of the institution of higher ed-
23 ucation certifying that the institution is in compliance with this sec-
24 tion.

25 (b) In 2026, this report shall include a list of:

26 (i) All offices, programs, and initiatives that have existed
27 within the institution within the preceding five (5) years that
28 would have constituted a violation of this section if this section
29 were in effect at such time, along with the actions taken by the
30 institution to ensure compliance with the provisions of this sec-
31 tion;

32 (ii) Officers, employees, and contractors that have been employed
33 by or contracted with the institution within the preceding five
34 (5) years that would have constituted a violation of this section
35 if this section were in effect at such time, along with the actions
36 taken by the institution to ensure compliance with the provisions
37 of this section; and

38 (iii) Trainings, activities, or courses of instruction required
39 by the institution within the preceding five (5) years that would
40 have constituted a violation of this section if this section were
41 in effect at such time, along with the actions taken by the insti-
42 tution to ensure compliance with the provisions of this section.

43 (5) The provisions of this section shall be enforced by the attorney
44 general as follows:

45 (a) Any person may notify the attorney general of a violation or poten-
46 tial violation of this section by an institution of higher education;

47 (b) The attorney general may file suit for a writ of mandamus compelling
48 the institution of higher education to comply with this section; and

49 (c) The attorney general may seek civil penalties for any violations of
50 this section up to two percent (2%) of the amount of the institution's

1 operating expenses budgeted for the state fiscal year preceding that in
2 which the violation occurred.

3 (6) Any student enrolled in a degree program at an institution of higher
4 education, any staff member of an institution of higher education, or any
5 alumnus of an institution of higher education shall have a private cause of
6 action against such an institution of higher education that violates the
7 provisions of this section to seek injunctive relief. Notwithstanding any
8 other law to the contrary, a civil action brought under this section may
9 be brought in the county in which all or a substantial part of the actions
10 or omissions giving rise to the claim occurred, the county of residence in
11 this state at the time the cause of action occurred for any one (1) of the
12 claimants, the county of the principal office in this state of any one (1) of
13 the defendants that is not a natural person, or the county of residence for
14 the claimant.

15 (7) The provisions of this section shall not be construed to:

16 (a) Limit research by students, faculty, or other research personnel
17 of an institution of higher education or the dissemination of such re-
18 search;

19 (b) Limit creative works by students, faculty, or other personnel of an
20 institution of higher education or the dissemination of such creative
21 works;

22 (c) Limit activities of student organizations registered with an in-
23 stitution of higher education as long as the organization and activity
24 do not use state funds;

25 (d) Limit the appearance of guest speakers and performers who do not
26 receive any form of compensation in exchange for their presentations,
27 performances, or appearances as long as attendance is voluntary;

28 (e) Prohibit an institution of higher education from establishing bona
29 fide qualifications based on sex that are reasonably necessary to the
30 normal operation of an institution of higher education;

31 (f) Limit the academic freedom of any individual faculty member of an
32 institution of higher education to direct the instruction within such
33 faculty member's own course not otherwise subject to this section;

34 (g) Prohibit any program or training that is generated by licensed at-
35 torneys and required for the institution of higher education to comply
36 with its obligation under title IX of the education amendments of 1972,
37 the federal Americans with disabilities act, the federal age discrim-
38 ination in employment act, title VI of the federal civil rights act of
39 1964, any applicable court order, or other applicable state and fed-
40 eral law, provided that the institution of higher education makes any
41 materials associated with such program or training publicly available
42 on its website;

43 (h) Prohibit an institution of higher education from regulating student
44 speech or activity that is prohibited by law or from investigating or
45 soliciting information about potentially illegal speech, speech asso-
46 ciated with potentially illegal activity, or incidents in which speech
47 rights were potentially curtailed. Except as further limited by this
48 section, institutions shall be allowed to restrict student expression
49 not otherwise protected by section 9, article I of the constitution of
50 the state of Idaho; or

1 (i) Prohibit an institution of higher education from supporting citi-
2 zens of federally recognized American Indian tribes by:

3 (i) Establishing and maintaining designated centers for American
4 Indian students;

5 (ii) Supporting American Indian cultural events; or

6 (iii) Offering or facilitating scholarships for American Indian
7 students.

8 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
9 to be severable and if any provision of this act or the application of such
10 provision to any person or circumstance is declared invalid for any reason,
11 such declaration shall not affect the validity of the remaining portions of
12 this act.

13 SECTION 4. An emergency existing therefor, which emergency is hereby
14 declared to exist, this act shall be in full force and effect on and after
15 July 1, 2025.