

IN THE SENATE

SENATE BILL NO. 1198

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 OF
10 ACTION, AND TO PROVIDE LIMITATIONS; PROVIDING SEVERABILITY; PROVIDING
11 APPLICABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
12 DATE.
13

14 Be It Enacted by the Legislature of the State of Idaho:

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

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

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

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

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

1 (ii) Solicit the reporting of incidents of student speech pro-
 2 tected by state or federal law, including but not limited to speech
 3 pertaining to disagreements of opinion, political beliefs or af-
 4 filiations, or perceived bias, prejudice, stereotypes, or intol-
 5 erance.

6 (b) (i) "Diversity, equity, and inclusion" or "DEI" means any
 7 trainings, programs, activities, or instruction that is derived
 8 from or that promotes the tenets or concepts of critical theory,
 9 including but not limited to the concepts of unconscious or im-
 10 plicit bias, microaggressions, internalized racism, cultural
 11 appropriation, structural equity, settler colonialism, group
 12 marginalization, systemic oppression, social justice, institu-
 13 tional or systemic racism, white fragility, racial privilege,
 14 disparate impact, intersectionality, sexual privilege, patri-
 15 archy, gender theory, queer theory, neopronouns, transgender
 16 ideology, misgendering, othering, deadnaming, heteronormativ-
 17 ity, allyship, or any other related formulation of these tenets
 18 or concepts. This definition shall also include any program, de-
 19 cision-making process, or initiative established for the purpose
 20 of:

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

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

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

38 (ii) This excludes trainings, programs, or activities developed
 39 by an attorney or person acting under the supervision of a licensed
 40 attorney and approved in writing by the institution of higher edu-
 41 cation's general counsel and the attorney general of the state of
 42 Idaho for the sole purpose of ensuring compliance with any appli-
 43 cable court order or state or federal law.

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

50 (ii) "Diversity, equity, and inclusion office" shall not include:

1 1. An office certified by the attorney general of the state
2 of Idaho as operating with the sole and exclusive mission of
3 ensuring legal compliance with the institution of higher ed-
4 ucation's obligations under title IX of the education amend-
5 ments of 1972, the federal Americans with disabilities act,
6 the federal age discrimination in employment act, title VI
7 of the federal civil rights act of 1964, an applicable court
8 order, or other applicable state or federal law;

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

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

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

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

27 1. Any full-time or part-time employee who is a licensed at-
28 torney or acting under the supervision of a licensed attor-
29 ney and whose sole job duties related to diversity, equity,
30 and inclusion are to ensure compliance with the institution
31 of higher education's obligations under title IX of the ed-
32 ucation amendments of 1972, the federal Americans with dis-
33 abilities act, the federal age discrimination in employment
34 act, title VI of the federal civil rights act of 1964, ap-
35 plicable court orders, or other applicable state and federal
36 law;

37 2. Any faculty member while such faculty member is teaching,
38 engaged in research, engaged in the production of creative
39 works, engaged in the dissemination of research or creative
40 works, or advising a registered student organization; or

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

44 (e) (i) "Diversity training" means a training, seminar, discus-
45 sion group, workshop, or other instructional program, whether
46 provided in-person, online, or by any other means, with a purpose
47 of advising, counseling, demonstrating, explaining, instructing,
48 or teaching participants in a way that promotes diversity, equity,
49 and inclusion.

1 (ii) "Diversity training" shall not include an academic course
2 offered for credit and not otherwise subject to subsection (2) (f)
3 or (g) of this section, counseling that involves a patient-client
4 relationship, or activities of a student organization registered
5 with an institution of higher education as long as the organiza-
6 tion and activity do not use state funds.

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

11 (f) "DEI-related course" means a course of instruction taken for credit
12 whose subject matter or pedagogical methodology is derived from or pro-
13 motes any of the concepts of critical theory or DEI described in this
14 section.

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

19 (i) Any public institution of higher education or subdivision or
20 affiliated entity thereof that receives funding appropriated by
21 the Idaho legislature; or

22 (ii) Any subdivision or affiliated entity of a private univer-
23 sity, college, or community college in Idaho that receives funding
24 appropriated by the Idaho legislature directly to the private in-
25 stitution.

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

29 (2) Except as otherwise provided in this section, no institution of
30 higher education in the state of Idaho, or any employee, appointee, or com-
31 mittee acting on behalf of an institution of higher education, shall:

32 (a) Discriminate against or provide preferential treatment to a
33 prospective student on account of such prospective student's race, sex,
34 color, ethnicity, or national origin during the admissions process to
35 determine such prospective student's acceptance into the institution
36 or a program of study;

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

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

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

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

1 (f) Establish curricula or designate courses at the institution in
2 a manner that requires or otherwise compels a student to enroll in a
3 DEI-related course in order to satisfy the requirements of any aca-
4 demic degree program, including general education, major, minor, or
5 certificate requirements, except as provided in subsection (3) of this
6 section. The restrictions provided in this paragraph shall not include
7 circumstances where a student fails to timely enroll in any available
8 general education course and, because of such failure to timely enroll,
9 is left with limited course availability; or

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

17 (3) Every institution of higher education in the state of Idaho shall
18 provide a procedure to allow the governing board of the institution of higher
19 education to exempt, upon written request to the board, any academic degree
20 program requirements of any major, minor, certificate, or department the ti-
21 tle of which clearly establishes its course of study as primarily focused on
22 racial, ethnic, or gender studies from the prohibitions of subsection (2) (f)
23 and (g) of this section, provided that a student may not be required or other-
24 wise compelled to enroll in any such program, department, or course in order
25 to satisfy the requirements of any other academic degree program, including
26 general education requirements, or any other major, minor, or certificate
27 requirements.

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

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

35 (i) All offices, programs, and initiatives that have existed
36 within the institution within the preceding two (2) years that
37 would have constituted a violation of the provisions of subsection
38 (2) of this section if this section was in effect at such time,
39 along with the actions taken by the institution to ensure compli-
40 ance with the provisions of this section;

41 (ii) Officers, employees, and contractors that have been employed
42 by or contracted with the institution within the preceding two (2)
43 years whose employment would have constituted a violation of this
44 section if this section was in effect at such time, along with the
45 actions taken by the institution to ensure compliance with the
46 provisions of this section; and

47 (iii) Trainings, activities, or courses of instruction required
48 by the institution within the preceding two (2) years that would
49 have constituted a violation of this section if this section was in

1 effect at such time, along with the actions taken by the institu-
2 tion to ensure compliance with the provisions of this section.

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

5 (a) Any person may notify the attorney general of a violation or poten-
6 tial violation of this section by an institution of higher education.
7 The attorney general shall investigate the alleged violation and, if
8 the attorney general determines that an institution of higher educa-
9 tion has violated any provision of this section, the attorney general
10 shall send written notice to the institution of higher education with
11 a detailed description of the violation and a request for the institu-
12 tion of higher education to cure any ongoing violations. The institution
13 of higher education shall cure any ongoing violation requested by the
14 attorney general and shall file a report to the attorney general within
15 thirty (30) days of receipt of the request from the attorney general
16 with a detailed description of the actions the institution has taken to
17 cure the violations;

18 (b) If an institution of higher education refuses to respond or the
19 attorney general determines that the institution of higher education
20 has not cured any ongoing violations after receiving notice pursuant to
21 paragraph (a) of this subsection, the attorney general may file suit for
22 a writ of mandamus or any appropriate injunctive relief compelling the
23 institution of higher education to comply with the provisions of this
24 section; and

25 (c) The attorney general may seek civil penalties for any violations of
26 this section up to two percent (2%) of the amount of the institution of
27 higher education's operating expenses for the offending division, of-
28 fice, center, or unit within the institution of higher education where
29 the violation occurred for the state fiscal year preceding that in which
30 the violation occurred.

31 (6) (a) Any student enrolled in a degree program at an institution of
32 higher education shall have a private cause of action against such an
33 institution of higher education that violates the provisions of subsec-
34 tion (2) (a), (c), (d), (e), or (f) of this section to seek injunctive re-
35 lief.

36 (b) Any staff member of an institution of higher education shall have a
37 private cause of action against such an institution of higher education
38 that violates the provisions of subsection (2) (b), (c), (d), (e), or (g)
39 of this section to seek injunctive relief.

40 (c) Notwithstanding any other provision of law to the contrary, a civil
41 action brought under this subsection shall be brought in the county
42 where a defendant institution of higher education is located and in
43 which all or a substantial part of the actions or omissions giving rise
44 to the claim occurred.

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

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

1 (b) Limit creative works by students, faculty, or other personnel of an
2 institution of higher education or the dissemination of such creative
3 works;

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

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

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

13 (f) Limit the academic freedom of any individual faculty member of an
14 institution of higher education to direct the instruction within such
15 faculty member's own course not otherwise subject to this section or to
16 limit the free discussion of ideas in a classroom setting;

17 (g) Prohibit any program or training that is generated by licensed at-
18 torneys and required for the institution of higher education to comply
19 with its obligation under title IX of the education amendments of 1972,
20 the federal Americans with disabilities act, the federal age discrim-
21 ination in employment act, title VI of the federal civil rights act of
22 1964, any applicable court order, or other applicable state and fed-
23 eral law, provided that the institution of higher education makes any
24 materials associated with such program or training publicly available
25 on its website;

26 (h) Prohibit an institution of higher education from regulating student
27 speech or activity that is prohibited by law or from investigating or
28 soliciting information about potentially illegal speech, speech as-
29 sociated with potentially illegal activity, incidents in which speech
30 rights were potentially curtailed, or is otherwise required by col-
31 legiate athletic organizations. Except as further limited by this
32 section, institutions shall be allowed to restrict student expression
33 not otherwise protected by section 9, article I of the constitution of
34 the state of Idaho; or

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

37 (i) Establishing and maintaining designated centers for American
38 Indian students;

39 (ii) Supporting American Indian cultural events; or

40 (iii) Offering or facilitating scholarships for American Indian
41 students.

42 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
43 to be severable and if any provision of this act or the application of such
44 provision to any person or circumstance is declared invalid for any reason,
45 such declaration shall not affect the validity of the remaining portions of
46 this act.

47 SECTION 4. APPLICABILITY. No provision of this act shall be construed
48 to apply to any institution of higher education in any manner retroactively
49 before July 1, 2025.

1 SECTION 5. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2025.