

House Study Bill 218 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON EDUCATION BILL BY
CHAIRPERSON WHEELER)

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

30 *a.* Any employee who is a licensed attorney and whose sole
31 job duties related to diversity, equity, and inclusion are
32 to ensure compliance with the public institution of higher
33 education's obligations under Tit. IX of the federal Education
34 Amendments Act of 1972, 20 U.S.C. §1681 et seq., as amended,
35 the federal Americans with Disabilities Act of 1990, 42 U.S.C.

1 §12101 et seq., as amended, the federal Age Discrimination in
2 Employment Act of 1967, 29 U.S.C. §621 et seq., as amended,
3 the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as
4 amended, or any other applicable federal or state law or a
5 court order.

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

10 *c.* A guest speaker or performer with a short-term
11 engagement.

12 4. "*Gender identity*" means the same as defined in section
13 216.2.

14 5. "*Public institution of higher education*" means an
15 institution of higher learning governed by the state board of
16 regents.

17 6. "*Sexual orientation*" means the same as defined in section
18 216.2.

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

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

28 2. Subsection 1 shall not be construed to cover or affect a
29 public institution of higher education's funding of any of the
30 following:

31 *a.* Academic course instruction.

32 *b.* Research or creative works by the public institution
33 of higher education's students, faculty, or other research
34 personnel, and the dissemination of such research or creative
35 works.

1 *c.* Activities of registered student organizations.

2 *d.* Arrangements for guest speakers and performers with
3 short-term engagements.

4 *e.* Mental or physical health services provided by licensed
5 professionals.

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

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

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

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

26 *b.* The report described in paragraph "a" shall certify that
27 the public institution of higher education is fully compliant
28 with subsection 1.

29 *c.* The public institution of higher education shall publish
30 the report described in paragraph "a" on the public institution
31 of higher education's internet page.

32 Sec. 3. NEW SECTION. 261J.3 Enforcement — venue.

33 1. Any person may notify the attorney general of a public
34 institution of higher education's potential violation of
35 section 261J.2. The attorney general may bring an action

1 against a public institution of higher education for a writ of
2 mandamus to compel the public institution of higher education
3 to comply with section 261J.2.

4 2. A student enrolled in a public institution of higher
5 education, a faculty member of a public institution of higher
6 education, or an alumnus of a public institution of higher
7 education alleging a violation of section 261J.2 may bring
8 a civil action for injunctive relief against the public
9 institution of higher education to prohibit the public
10 institution of higher education from continuing such violation.

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

13 a. The county in which all or a substantial part of the
14 events or omissions giving rise to the action occurred.

15 b. The county in which the principal office of the public
16 institution of higher education is located.

17 c. The county in which the claimant resides, if the claimant
18 is an individual and resides in this state.

19 d. The county in which a defendant resides, if the defendant
20 is an individual and resides in this state.

21 Sec. 4. FY 2022-2023 APPROPRIATIONS — REALLOCATION.

22 Public institutions of higher education shall reallocate all
23 unexpended moneys appropriated by the general assembly in FY
24 2022-2023 that would have been expended on diversity, equity,
25 and inclusion offices or diversity, equity, and inclusion
26 officers on or after the effective date of this Act to merit
27 scholarships for lower-income and middle-income students and to
28 reduce tuition and mandatory fees for resident students.

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

31

EXPLANATION

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

34 This bill prohibits institutions of higher learning governed
35 by the state board of regents (public institutions of higher

1 education) from expending moneys to fund diversity, equity, and
2 inclusion offices or to hire individuals to serve as diversity,
3 equity, and inclusion officers.

4 The bill prohibits public institutions of higher education
5 from expending any moneys appropriated by the general assembly
6 or any other moneys derived from bequests, charges, deposits,
7 donations, endowments, fees, grants, gifts, income, receipts,
8 tuition, or any other source to establish, sustain, support,
9 or staff a diversity, equity, and inclusion office, or to
10 contract, employ, engage, or hire an individual to serve as a
11 diversity, equity, and inclusion officer. The bill provides
12 that this prohibition does not affect a public institution of
13 higher education's funding of academic course instruction,
14 research or creative works, activities of registered student
15 organizations, arrangements for guest speakers and performers
16 with short-term engagements, or mental or physical health
17 services provided by licensed professionals. The bill also
18 provides that this prohibition shall not be construed as
19 prohibiting bona fide qualifications based on sex that are
20 reasonably necessary to the normal operation of public higher
21 education.

22 The bill prohibits public institutions of higher education
23 from expending any moneys appropriated by the general assembly
24 for a fiscal year beginning on or after July 1, 2023, until
25 the public institution of higher education files with the
26 state board of regents a report that details the institution's
27 compliance with the bill's provisions.

28 The bill authorizes the attorney general to bring an action
29 against a public institution of higher education for a writ of
30 mandamus to compel the public institution of higher education
31 to comply with these prohibitions. The bill also authorizes a
32 student, faculty member, or alumnus of a public institution of
33 higher education alleging a violation of the bill's provisions
34 to bring a civil action for injunctive relief against the
35 public institution of higher education to prohibit the public

1 institution of higher education from continuing such violation.
2 The bill establishes the venue in which such actions may be
3 brought.

4 The bill requires public institutions of higher education to
5 reallocate all unexpended moneys appropriated by the general
6 assembly in FY 2022-2023 that would have been expended on
7 diversity, equity, and inclusion offices or diversity, equity,
8 and inclusion officers on or after the effective date of the
9 bill to merit scholarships for lower-income and middle-income
10 students and to reduce tuition and mandatory fees for resident
11 students.

12 The bill defines "diversity, equity, and inclusion",
13 "diversity, equity, and inclusion office", "diversity, equity,
14 and inclusion officer", "gender identity", "public institution
15 of higher education", and "sexual orientation".

16 The bill takes effect upon enactment.