

House File 856 - Introduced

HOUSE FILE 856
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 155)

A BILL FOR

1 An Act prohibiting state entities from expending moneys to
2 fund diversity, equity, and inclusion offices or to hire
3 individuals to serve as diversity, equity, and inclusion
4 officers, creating a private cause of action, and including
5 effective date provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **19.1 Definitions.**

2 As used in this chapter:

3 1. "*Diversity, equity, and inclusion*" includes any of the
4 following:

5 a. Any effort to manipulate or otherwise influence the
6 composition of the employees 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 provide
11 special benefits to individuals on the basis of race, color, or
12 ethnicity.

13 c. Any effort to promote or promulgate policies and
14 procedures designed or implemented with reference to race, color,
15 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
21 of the state entity, a particular, widely contested
22 opinion referencing unconscious or implicit bias, cultural
23 appropriation, allyship, transgender ideology, microaggressions,
24 group marginalization, anti-racism, systemic oppression, social
25 justice, intersectionality, neopronouns, heteronormativity,
26 disparate impact, gender theory, racial privilege, sexual
27 privilege, or any related formulation of these concepts.

28 2. "*Diversity, equity, and inclusion office*" means any
29 division, office, center, or other unit of a state entity that
30 is responsible for creating, developing, designing, implementing,
31 organizing, planning, or promoting policies, programming,
32 training, practices, activities, or procedures related to
33 diversity, equity, and inclusion. "*Diversity, equity, and*
34 *inclusion office*" does not include any of the following:

35 a. An office staffed exclusively by licensed attorneys and

1 paralegal and secretarial support for the licensed attorneys,
2 and certified by the attorney general as operating with the
3 sole and exclusive mission of ensuring legal compliance with the
4 state entity's obligations under Tit. IX of the federal Education
5 Amendments Act of 1972, 20 U.S.C. §1681 et seq., as amended, the
6 federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101
7 et seq., as amended, the federal Age Discrimination in Employment
8 Act of 1967, 29 U.S.C. §621 et seq., as amended, the federal
9 Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, or any
10 other applicable federal or state law or a court order.

11 b. An academic department within a public school that exists
12 primarily for the purpose of offering courses and that does not
13 establish a policy or procedure to which other departments of the
14 public school are subject.

15 c. An office solely engaged in recruitment.

16 d. A registered student organization.

17 e. An office that a state entity is required to maintain
18 pursuant to a contract or agreement with a federal governmental
19 entity.

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

29 a. Any employee who is a licensed attorney and whose sole job
30 duties related to diversity, equity, and inclusion are to ensure
31 compliance with the state entity's obligations under Tit. IX of
32 the federal Education Amendments Act of 1972, 20 U.S.C. §1681
33 et seq., as amended, the federal Americans with Disabilities
34 Act of 1990, 42 U.S.C. §12101 et seq., as amended, the federal
35 Age Discrimination in Employment Act of 1967, 29 U.S.C. §621

1 et seq., as amended, the federal Civil Rights Act of 1964,
2 Pub. L. No. 88-352, as amended, or any other applicable federal
3 or state law or a court order.

4 b. Any employee while engaged in teaching, research, or the
5 production of creative works, the dissemination of the employee's
6 research or creative works, or advising a registered student
7 organization.

8 c. A guest speaker or performer with a short-term engagement.

9 d. Any employee that a state entity is required to employ
10 pursuant to a contract or agreement with a federal governmental
11 entity.

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

14 5. "Sexual orientation" means the same as defined in section
15 216.2.

16 6. "State entity" means the state, including but not limited
17 to a state agency, department, division, board, commission,
18 institution, or authority; a city; a county; a township; or any
19 other political subdivision or special district in this state as
20 established pursuant to state or local law.

21 Sec. 2. NEW SECTION. **19.2 Restrictions on use of moneys.**

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

29 2. Subsection 1 shall not be construed to cover or affect a
30 state entity's funding of any of the following:

31 a. Academic course instruction.

32 b. Research or creative works by the state entity's students,
33 employees, or other research personnel, and the dissemination of
34 such research or creative works.

35 c. Activities of registered student organizations.

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

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

5 f. Policies, programming, training, practices, activities, or
6 procedures related to diversity, equity, and inclusion that are
7 required pursuant to a contract or agreement with a federal
8 governmental entity.

9 3. Subsection 1 shall not be construed as prohibiting bona
10 fide qualifications based on sex that are reasonably necessary to
11 the normal operation of the state entity.

12 Sec. 3. NEW SECTION. **19.3 Enforcement — venue.**

13 1. Any person may notify the attorney general of a state
14 entity's potential violation of section 19.2. The attorney
15 general may bring an action against a state entity for a writ of
16 mandamus to compel the state entity to comply with section 19.2.

17 2. A student enrolled in a public school, an alumnus of
18 a public school, or an employee of a state entity alleging a
19 violation of section 19.2 may bring a civil action for injunctive
20 relief against the state entity to prohibit the state entity from
21 continuing such violation.

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

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

26 b. The county in which the principal office of the state
27 entity is located.

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

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

32 Sec. 4. **EFFECTIVE DATE.** This Act, being deemed of immediate
33 importance, takes effect upon enactment.

34 **EXPLANATION**

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill prohibits state entities, defined to include local
3 government entities, from expending moneys to fund diversity,
4 equity, and inclusion offices or to hire individuals to serve as
5 diversity, equity, and inclusion officers.

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

24 The bill authorizes the attorney general to bring an action
25 against a state entity for a writ of mandamus to compel the
26 state entity to comply with these prohibitions. The bill also
27 authorizes a student or alumnus of a public school, or an
28 employee of a state entity, alleging a violation of the bill's
29 provisions to bring a civil action for injunctive relief against
30 the state entity to prohibit the state entity from continuing
31 such violation. The bill establishes the venue in which such
32 actions may be brought.

33 The bill takes effect upon enactment.