

IN THE SENATE

SENATE BILL NO. 1357

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO HIGHER EDUCATION FAIRNESS; AMENDING TITLE 33, IDAHO CODE, BY  
2 THE ADDITION OF A NEW CHAPTER 68, TITLE 33, IDAHO CODE, TO DEFINE TERMS,  
3 TO PROHIBIT DIVERSITY, EQUITY, AND INCLUSION IN HIGHER EDUCATION, TO  
4 PROHIBIT DIVERSITY TRAINING, TO PROHIBIT POLITICAL LOYALTY TESTS, TO  
5 PROVIDE FOR ATTORNEY GENERAL ENFORCEMENT, AND TO PROVIDE FOR A PRIVATE  
6 CAUSE OF ACTION; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND  
7 PROVIDING AN EFFECTIVE DATE.  
8

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

10 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended  
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
12 ter 68, Title 33, Idaho Code, and to read as follows:

13 CHAPTER 68  
14 HIGHER EDUCATION FAIRNESS

15 33-6801. DEFINITIONS. As used in this chapter:

16 (1) "Diversity, equity, and inclusion" means any program or initiative  
17 of an institution of higher education established for the purpose of:

18 (a) Influencing hiring or employment practices at the institution of  
19 higher education with respect to race, color, ethnicity, national ori-  
20 gin, sex, disability, or religion, other than through the use of color-  
21 blind and sex-neutral hiring processes in accordance with any applica-  
22 ble state and federal anti-discrimination laws;

23 (b) Promoting differential treatment of or providing special benefits  
24 to individuals on the basis of race, color, ethnicity, national origin,  
25 sex, disability, or religion;

26 (c) Promoting policies or procedures designed or implemented in ref-  
27 erence to race, color, ethnicity, national origin, sex, disability, or  
28 religion, other than policies or procedures approved in writing by the  
29 institution of higher education's general counsel and the attorney gen-  
30 eral of the state of Idaho for the sole purpose of ensuring compliance  
31 with any applicable court order or state or federal law; or

32 (d) Conducting trainings, programs, or activities designed or imple-  
33 mented in reference to race, color, ethnicity, national origin, sex,  
34 disability, or religion. This excludes trainings, programs, or activi-  
35 ties developed by an attorney and approved in writing by the institution  
36 of higher education's general counsel and the attorney general of the  
37 state of Idaho for the sole purpose of ensuring compliance with any ap-  
38 plicable court order or state or federal law.

39 (2)(a) "Diversity, equity, and inclusion office" means any division,  
40 office, center, or other unit of an institution of higher education  
41 that is responsible for creating, developing, designing, implementing,

1 organizing, planning, or promoting policies, programming, training,  
 2 practices, activities, and procedures relating to diversity, equity,  
 3 and inclusion.

4 (b) A "diversity, equity, and inclusion office" expressly includes but  
 5 is not limited to the following:

- 6 (i) The blue sky institute at Boise state university;
- 7 (ii) The gender equity center at Boise state university;
- 8 (iii) The Boise state uniting for inclusion and leadership in di-  
 9 versity (BUILD) program at Boise state university;
- 10 (iv) The center for multicultural and educational opportunities  
 11 (CMEO) at Boise state university;
- 12 (v) The office of equity and diversity at the university of Idaho;
- 13 (vi) The black and African American cultural center at the univer-  
 14 sity of Idaho;
- 15 (vii) The LGBTQA office at the university of Idaho;
- 16 (viii) The office of multicultural affairs at the university of  
 17 Idaho;
- 18 (ix) The women's center at the university of Idaho;
- 19 (x) The office of equity and inclusion at Idaho state university;  
 20 and
- 21 (xi) The diversity resource center at Idaho state university.

22 (c) A "diversity, equity, and inclusion office" does not include:

- 23 (i) An office certified by the attorney general of the state of  
 24 Idaho as operating with the sole and exclusive mission of ensur-  
 25 ing legal compliance with the institution of higher education's  
 26 obligations under title IX of the education amendments of 1972, as  
 27 amended; the federal Americans with disabilities act, as amended;  
 28 the federal age discrimination in employment act, as amended; ti-  
 29 tle VI of the federal civil rights act of 1964; an applicable court  
 30 order; or other applicable state or federal law;
- 31 (ii) An academic department defined as a unit of an institution of  
 32 higher education that exists primarily for the purpose of offer-  
 33 ing courses for degree credit and that does not establish policy or  
 34 procedures to which other units of the institution of higher edu-  
 35 cation are subject;
- 36 (iii) An office solely engaged in new student recruitment; or
- 37 (iv) A registered student organization.

38 (3) (a) "Diversity, equity, and inclusion officer" means an individ-  
 39 ual whose duties for the institution include coordinating, creating,  
 40 developing, designing, implementing, organizing, planning, or promot-  
 41 ing policies, programming, training, practices, activities, and proce-  
 42 dures relating to diversity, equity, and inclusion and who is a full-  
 43 time or part-time employee of an institution of higher education or com-  
 44 ponent thereof or an independent contractor of an institution of higher  
 45 education.

46 (b) A "diversity, equity, and inclusion officer" expressly includes  
 47 but is not limited to the following positions:

- 48 (i) Vice provost for community engagement and belonging at Boise  
 49 state university;

- 1 (ii) Assistant to the vice president for equity initiatives at  
2 Boise state university;
- 3 (iii) Administrative assistant II at the student equity center at  
4 Boise state university;
- 5 (iv) Director of the blue sky institute at Boise state university;
- 6 (v) Programs and projects coordinator of blue sky institute at  
7 Boise state university;
- 8 (vi) Associate dean of students at the gender equity center at  
9 Boise state university;
- 10 (vii) Engaging men project director at the gender equity center at  
11 Boise state university;
- 12 (viii) Program manager at the gender equity center at Boise state  
13 university;
- 14 (ix) Project director of violence prevention and response initia-  
15 tives at the gender equity center at Boise state university;
- 16 (x) Management assistant at the gender equity center at Boise  
17 state university;
- 18 (xi) Managing director of the equity advocates program at Boise  
19 state university;
- 20 (xii) Program assistant for the BUILD program at Boise state uni-  
21 versity;
- 22 (xiii) Director, BUILD program at Boise state university;
- 23 (xiv) Instructional consultant for inclusive teaching and interim  
24 director, BUILD program at Boise state university;
- 25 (xv) Director, center for multicultural and educational opportu-  
26 nities at Boise state university;
- 27 (xvi) Chief diversity officer and executive director of tribal re-  
28 lations at the university of Idaho;
- 29 (xvii) Director, black and African American cultural center at the  
30 university of Idaho;
- 31 (xviii) Administrative assistant for the black and African Ameri-  
32 can cultural center at the university of Idaho;
- 33 (xix) Director, LGBTQA office at the university of Idaho;
- 34 (xx) Director, office of equity and diversity at the university of  
35 Idaho;
- 36 (xxi) Administrative assistant for the LGBTQA office at the uni-  
37 versity of Idaho;
- 38 (xxii) Idaho EPSCoR diversity, outreach, and communications coor-  
39 dinator at the university of Idaho;
- 40 (xxiii) Director, office of multicultural affairs at the univer-  
41 sity of Idaho;
- 42 (xxiv) Program coordinator, office of multicultural affairs at  
43 the university of Idaho;
- 44 (xxv) Director, women's center at the university of Idaho;
- 45 (xxvi) Office of violence against women project director at the  
46 university of Idaho;
- 47 (xxvii) Program coordinator, women's center at the university of  
48 Idaho;
- 49 (xxviii) Office manager, women's center at the university of  
50 Idaho;

1 (xxix) Micron director of diversity, inclusion, and outreach at  
2 the university of Idaho;

3 (xxx) Associate dean of diversity, inclusion, and outreach, uni-  
4 versity of Idaho college of law;

5 (xxxii) Associate dean for inclusion, college of education, health  
6 and human sciences, at the university of Idaho;

7 (xxxiii) Director, office of equity and inclusion at Idaho state  
8 university;

9 (xxxiiii) Associate director, office of equity and inclusion, di-  
10 versity resource center at Idaho state university;

11 (xxxv) Gender resource center assistant director at Idaho state  
12 university; and

13 (xxxvi) Management assistant, office of equity and inclusion, at  
14 Idaho state university.

15 (c) A "diversity, equity, and inclusion officer" does not include:

16 (i) Any full-time or part-time employee who is a licensed attor-  
17 ney and whose sole job duties related to diversity, equity, and  
18 inclusion are to ensure compliance with the institution of higher  
19 education's obligations under title IX of the education amend-  
20 ments of 1972, as amended; the federal Americans with disabilities  
21 act, as amended; the federal age discrimination in employment act,  
22 as amended; title VI of the federal civil rights act of 1964; ap-  
23 plicable court order; or other applicable state and federal law;

24 (ii) Any faculty member while engaged in teaching, research, and  
25 the production of creative works; the dissemination of their re-  
26 search and creative works; or advising a registered student organ-  
27 ization; or

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

29 (4) "Diversity training" means a training, seminar, discussion group,  
30 workshop, or other instructional program, whether provided in-person, on-  
31 line, or by any other means, with a purpose of advising, counseling, demon-  
32 strating, explaining, instructing, or teaching participants about diver-  
33 sity, equity, and inclusion. "Diversity training" does not include an aca-  
34 demic course offered for credit or activities of a registered student organ-  
35 ization affecting only its members. "Diversity training" does not limit or  
36 prohibit an institution of higher education's authority to establish poli-  
37 cies that are necessary to comply with state or federal law, including laws  
38 relating to prohibited discrimination or harassment.

39 (5) "Institution of higher education" means the following entities  
40 that are accredited by the northwest commission on colleges and universities  
41 or another accrediting body recognized by the state board of education:

42 (a) Public universities or any component thereof, including any com-  
43 ponent of the university of Idaho that receives funding appropriated by  
44 the Idaho legislature;

45 (b) Public colleges, community colleges, or any component thereof;

46 (c) Public career technical schools operated by the state of Idaho or  
47 any political subdivision thereof; and

48 (d) Any component of private universities, colleges, or community col-  
49 leges in Idaho that receives funding appropriated by the Idaho legisla-  
50 ture.

1 (6) "Mandatory" means a requirement of any kind imposed on a student,  
2 employee, or applicant for employment, including but not limited to:

3 (a) A requirement that, if not fulfilled, may adversely affect the sta-  
4 tus, salary, or benefits of an employee or applicant for employment at  
5 the institution of higher education or component thereof;

6 (b) A requirement to participate in any administrative process or deci-  
7 sion-making body of the institution of higher education, such as a hir-  
8 ing committee;

9 (c) A requirement to participate in any otherwise available program  
10 sponsored by the institution of higher education or component thereof;

11 (d) A requirement to receive any generally available benefit offered by  
12 the institution of higher education;

13 (e) A requirement to live in any residential facility used exclusively  
14 for housing or boarding students or faculty; or

15 (f) A requirement for the application or receipt of any scholarship,  
16 loan, grant, financial aid, or forgiveness program.

17 (7) (a) "Political loyalty test" means compelling, requiring, or solici-  
18 ting a person to identify a commitment to or to make a statement of per-  
19 sonal belief in support of:

20 (i) Any ideology or movement that promotes the differential  
21 treatment of a person or a group of persons based on race or eth-  
22 nicity, including an initiative or a formulation of diversity,  
23 equity, and inclusion beyond upholding the equal protection of the  
24 laws guaranteed by the fourteenth amendment to the United States  
25 constitution or a theory or practice that holds that systems or in-  
26 stitutions upholding the equal protection of the laws guaranteed  
27 by the fourteenth amendment to the United States constitution are  
28 racist, oppressive, or otherwise unjust; or

29 (ii) A specific partisan, political, or ideological set of be-  
30 liefs.

31 (b) A political loyalty test does not include fidelity to, or an oath or  
32 effort taken to uphold general state and federal laws, the constitution  
33 of the United States, or the constitution of the state of Idaho.

34 33-6802. DIVERSITY, EQUITY, AND INCLUSION BUREAUCRACIES -- PROHIBI-  
35 TION. (1) The university of Idaho and any private institution of higher edu-  
36 cation in the state of Idaho shall not expend funds appropriated by the Idaho  
37 legislature to establish, sustain, support, or staff a diversity, equity,  
38 and inclusion office or to contract, employ, engage, or hire an individual  
39 to serve as a diversity, equity, and inclusion officer. Any other institu-  
40 tion of higher education shall not otherwise expend any funds derived from  
41 any funds appropriated by the Idaho legislature or any bequests, charges,  
42 deposits, donations, endowments, fees, grants, gifts, income, receipts, tu-  
43 tion, or any other source.

44 (2) Nothing in this section shall be construed to cover or affect an in-  
45 stitution of higher education's funding of:

46 (a) Academic course instruction;

47 (b) Research and creative works by the institution of higher educa-  
48 tion's students, faculty, or other research personnel, and the dissemi-  
49 nation thereof;

- 1 (c) Activities of registered student organizations;  
2 (d) Arrangements for guest speakers and performers with short-term en-  
3 gagements; or  
4 (e) Mental or physical health services provided by licensed profes-  
5 sionals.

6 (3) Nothing in this section shall be interpreted as prohibiting bona  
7 fide qualifications based on sex that are reasonably necessary to the normal  
8 operation of an institution of higher education.

9 (4) Any funds that would otherwise have been expended on diversity, eq-  
10 uity, and inclusion offices or diversity, equity, and inclusion officers in  
11 fiscal year 2025 may be reallocated, at the discretion of the governing board  
12 of the institution of higher education, to merit scholarships for lower-in-  
13 come and middle-income students and to reduce tuition for in-state students.

14 (5) No funds appropriated to an institution of higher education for  
15 fiscal year 2025 shall be expended until its governing board has filed a re-  
16 port with the state board of education that:

17 (a) Discloses the steps taken to comply with the provisions of this sec-  
18 tion by the governing board and its staff, the administration, staff,  
19 and faculty of the institution of higher education under the board's  
20 governance;

21 (b) Discloses the number and job titles of the individuals deemed to be  
22 required by the institution of higher education's obligations to comply  
23 with title IX of the education amendments of 1972, as amended; the fed-  
24 eral Americans with disabilities act, as amended; the federal age dis-  
25 crimination in employment act, as amended; title VI of the civil rights  
26 act of 1964; applicable court order; or other applicable state and fed-  
27 eral law; and

28 (c) Includes a certification that the institution of higher education  
29 under the board's governance is fully compliant with the provisions of  
30 this section. The institution of higher education shall also make such  
31 report available to the public on its website.

32 33-6803. DIVERSITY TRAINING -- PROHIBITION. An institution of higher  
33 education shall not require mandatory diversity training.

34 33-6804. POLITICAL LOYALTY TESTS -- PROHIBITION. (1) No political  
35 loyalty test shall be required or solicited as part of an admissions process,  
36 employment application process, hiring process, contract renewal process,  
37 or promotion process or as a condition of participation in any administra-  
38 tive or decision-making function of any institution of higher education of  
39 the state.

40 (2) No institution of higher education shall grant preferential con-  
41 sideration to an applicant, teacher, employee, or student for opinions ex-  
42 pressed or action taken pertaining to another individual or a group of in-  
43 dividuals in which the institution's consideration is based on race, sex,  
44 color, ethnicity, gender identity, or sexual orientation of those other in-  
45 dividuals.

46 (3) Nothing in this section shall prevent an institution of higher edu-  
47 cation from requiring an applicant or candidate:

1 (a) To disclose or discuss the content of the applicant's or candi-  
2 date's scholarly research or creative works;

3 (b) To certify compliance with state and federal anti-discrimination  
4 laws;

5 (c) To discuss pedagogical approaches or experience with students with  
6 mental or physical disabilities; or

7 (d) To affirm fidelity to or provide an oath to uphold the constitution  
8 and laws of the state of Idaho and the United States.

9 (4) Nothing in this section shall prevent an applicant or candidate  
10 from providing or disclosing any information described in this section on  
11 the applicant's or candidate's own initiative.

12 (5) Annually by July 1, each Idaho institution of higher education's  
13 office of general counsel shall transmit a written report verifying the in-  
14 stitution of higher education's compliance with the provisions of this chap-  
15 ter to the speaker of the house of representatives and to the president pro  
16 tempore of the senate.

17 33-6805. ATTORNEY GENERAL ENFORCEMENT. The provisions of this chapter  
18 shall be enforced by the attorney general, as follows:

19 (1) Any person may notify the attorney general of a violation or poten-  
20 tial violation of this chapter by an institution of higher education; and

21 (2) The attorney general may file suit for a writ of mandamus compelling  
22 the institution of higher education to comply with this chapter.

23 33-6806. PRIVATE CAUSE OF ACTION. (1) This chapter creates a private  
24 cause of action.

25 (2) Any student enrolled in a degree program at an institution of higher  
26 education, any faculty member of an institution of higher education, any  
27 staff member of an institution of higher education, or any alumnus of an in-  
28 stitution of higher education may bring an action against such institution  
29 of higher education that violates the provisions of this chapter.

30 (3) If the claimant shows that the institution of higher education  
31 committed a violation as described in subsection (2) of this section, the  
32 claimant shall be entitled to injunctive relief.

33 (4) Notwithstanding any other law to the contrary, a civil action  
34 brought under this section may be brought in:

35 (a) The county in which all or a substantial part of the events or omis-  
36 sions giving rise to the claim occurred;

37 (b) The county of residence in this state at the time the cause of action  
38 occurred for any one of the claimants;

39 (c) The county of the principal office in this state of any one of the  
40 defendants that is not a natural person; or

41 (d) The county of residence for the claimant.

42 (5) This section shall not be construed to:

43 (a) Limit the academic freedom of any individual faculty member to di-  
44 rect the instruction within the faculty member's own course; or

45 (b) Prohibit any program or training scripted by licensed attorneys and  
46 required to comply with the institution of higher education's obliga-  
47 tions under title IX of the education amendments of 1972, as amended;  
48 the federal Americans with disabilities act, as amended; the federal

1 age discrimination in employment act, as amended; title VI of the fed-  
2 eral civil rights act of 1964; applicable court order; or other applica-  
3 ble state and federal law, provided the institution of higher education  
4 makes the materials for the program publicly available on the institu-  
5 tion of higher education's website.

6 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared  
7 to be severable and if any provision of this act or the application of such  
8 provision to any person or circumstance is declared invalid for any reason,  
9 such declaration shall not affect the validity of the remaining portions of  
10 this act.

11 SECTION 3. An emergency existing therefor, which emergency is hereby  
12 declared to exist, this act shall be in full force and effect on and after  
13 July 1, 2024.