



ARIZONA STATE SENATE
Fifty-Seventh Legislature, First Regular Session

VETOED
AMENDED

FACT SHEET FOR H.B. 2868

preferential treatment; discrimination; policies

Purpose

Outlines prohibitions for the state or a state agency, a city or town, county, community college district governing board and a state university relating to diversity, equity and inclusion (DEI). Requires the state or a state agency, a city or town, county, community college district governing board and a state university to adopt policies that appropriately discipline an employee or contractor that engages in conduct that violates the prohibitions relating to DEI.

Background

The state or state agencies may not require an employee to engage in, or use public monies for the purpose of training, orientation or therapy that presents blame or judgement on the basis of race, ethnicity or sex ([A.R.S. § 41-1494](#)).

An employer may not discharge, refuse to hire or discriminate against any individual on the basis of compensation, disability, terms or conditions of employment because of race, color religion, sex, age, national origin or on the basis of disability. Additionally, an employer may not limit, segregate or classify employees or applicants for employment in any way that would deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of the individual's race, color, religion, sex, age, national origin or on the basis of disability. The outlined requirements relating to discrimination must not be interpreted to require that a less qualified individual be preferred over the better qualified individual simply because of race, color, religion, sex, age, national origin or on the basis of disability ([A.R.S. § 41-1463](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits the state or a state agency, a city or town, county, community college district governing board or a university under the jurisdiction of the Arizona Board of Regents from:
 - a) establishing or maintaining a DEI office;
 - b) hiring or assigning an employee or contract with a third party to perform the duties of a DEI office;
 - c) compelling, requiring, inducing or soliciting any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement;
 - d) giving preference on the basis of race, sex, color or ethnicity to an applicant for employment, an employee or a participant in any function of the entity;

- e) requiring as a condition of employment or enrollment any person to participate in DEI training, including a training program or activity designed or implemented in reference to race, color, ethnicity, gender identity or sexual orientation and does not include a training, program or activity developed by an attorney and approved in writing by the entity's general counsel for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
 - f) requiring enrollment in or completion of an academic course that promotes, in the context of contemporary American society, the tenants of DEI or the activities of a DEI office.
2. Requires the state or a state agency, a city or town, county, community college district governing board or a state university to adopt policies and procedures for appropriately disciplining, including by termination, an employee or contractor that engages in conduct in violation of the DEI prohibitions.
3. Defines *DEI*:
- a) means interrelated concepts that:
 - i. describe or expose structures, systems or relations of power, privilege or subordination on the basis of race, sex, color, gender, ethnicity, gender identity or sexual orientation;
 - ii. describe methods to identify, dismantle or oppose structures, systems or relations; or
 - iii. justify differential treatment of or special benefits conferred to individuals on the basis of race, sex, color, gender, ethnicity, gender identity or sexual orientation; and
 - b) includes unconscious or implicit bias, cultural appropriation, allyship, transgenderism, microaggressions, microinvalidation, group marginalization, antiracism, systemic oppression, ethnocentrism, structural racism, structural inequity, social justice, intersectionality, neopronouns, inclusive language, heteronormativity, disparate impact, gender identity, gender theory, racial or sexual privilege or related formulations of these concepts.
4. Defines *DEI office* as an office, division or other unit established for:
- a) influencing hiring or employment practices in the entity with respect to race, sex, color or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
 - b) promoting differential treatment of or providing special benefits to individuals on the basis of race, color or ethnicity;
 - c) promoting policies or procedures designed or implemented in reference to race, color or ethnicity, other than policies or procedures approved in writing by the municipality's general counsel for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
 - d) conducting trainings, programs or activities designed or implemented in reference to race, color, ethnicity, gender identity or sexual orientation or DEI, other than trainings, programs or activities developed by an attorney and approved in writing by the entity's general counsel for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

5. Specifies that the prohibitions relating to DEI on a community college district governing board and state university does not apply to:
 - a) academic course instruction, except for mandatory DEI academic instruction;
 - b) scholarly research or a creative work by students, faculty or other research personnel or the dissemination of that research or work;
 - c) an activity or a student organization registered with the community college or state university;
 - d) guest speakers or performers on short-term engagements;
 - e) a policy, practice, procedure, program or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color or ethnicity;
 - f) data collection; or
 - g) student recruitment or admissions.
6. Specifies that the prohibitions relating to DEI on a community college district governing board and state university does not:
 - a) limit or prohibit a community college or state university or an employee from applying for a grant, complying with the terms of accreditation by an accrediting agency or submitting to the grantor or accrediting agency a statement that:
 - i. highlights the institution's work in supporting first generation students, low-income students or underserved student populations; or
 - ii. certifies compliance with state and federal antidiscrimination laws.
 - b) prohibit bona fide qualifications based on sex, which are conducive to the normal operation of public universities; or
 - c) prohibit identifying and discussing historical movements, ideologies or instances of racial hatred or discrimination, including slavery, Indian removal, the Holocaust or Japanese American internment.
7. Prohibits a community college or state university from spending monies appropriated to the institution in any given FY until the institution submits to the Legislature a report that certifies the institution's compliance with the prohibitions relating to DEI during the preceding FY.
8. Requires the community college and state university or its designee, in the interim, to testify before the Senate Education Committee and the House of Representatives Education Committee, or its successor committees at a public hearing of each committee regarding the institution's compliance with the outlined prohibitions relating to DEI.
9. Allows a student or employee of a community college or state university who is required to participate in any training that violates the outlined prohibitions relating to DEI to bring an action against the institution for injunctive or declaratory relief.
10. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Adopted the strike-everything amendment.

2. Requires, rather than prohibits, the outlined entities to policies and procedures appropriately disciplining an employee or contractor that violates the outlined DEI prohibitions.
3. Makes technical and conforming changes.

Amendments Adopted by Committee of the Whole

1. Clarifies that the outlined DEI prohibitions do not apply to academic instruction, except for mandatory DEI academic instruction.
2. Makes technical and conforming changes.

Governor's Veto Message

The Governor indicates in her [veto message](#) that H.B. 2868 would jeopardize the state universities' and community colleges' continued stability, leading to negative effects on the state's workforce and economy.

Senate Action

GOV	3/26/25	DPA/SE	4-3-0
3 rd Read	5/6/25		17-11-2

House Action

Final Read	5/7/25	33-25-2
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Vetoed by the Governor on 5/13/25

Prepared by Senate Research

May 14, 2025

AN/slp