



ARIZONA STATE SENATE

Fifty-Seventh Legislature, First Regular Session

FACT SHEET FOR H.C.R. 2042

preferential treatment; discrimination; prohibited acts

Purpose

Subject to voter approval, constitutionally prohibits the state from compelling or spending public monies on promoting or giving preferential treatment to or discriminating against any individual on the basis of race or ethnicity.

Background

The state may not grant preferential treatment to or discriminate against an individual or group on the basis of race, sex, color, ethnicity or national origin in relation to public employment, education or contracts. The prohibition on granting preferential treatment or discriminating against an individual as outlined does not prohibit: 1) bona fide qualifications based on sex that are reasonably necessary for the normal operation of public employment, education or contracting; 2) any action that must be taken to establish or maintain eligibility for any federal program if ineligibility would result in a loss of federal monies to Arizona; or 3) invalidating any court order or consent decree that is in force ([Ariz. Const. art. 2 § 36](#)).

The state and 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](#)).

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

Provisions

1. Prohibits the state from compelling an applicant, employee, student or contractor to endorse or support giving preferential treatment to or discriminating against any individual on the basis of race or ethnicity as a condition of any admission, graduation, hiring, promotion, certification, contracting decision, other employment function or scholarship opportunity.
2. Prohibits the state from spending public monies to operate or contract for any office or position in an institution of public education that is responsible for promoting preferential treatment toward or discrimination against an individual or group on the basis of race or ethnicity.
3. Prohibits the state from implementing any disciplinary policy or practice that treats an individual student, employee, group of students or employees differently on the basis of race or ethnicity.
4. Includes in the prohibition on giving preferential treatment to or discriminating against any individual on the basis of race or ethnicity:
 - a) requiring or soliciting a written or oral statement in support of:

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- i. a theory or practice that advocates for the differential treatment of any individual or group of individuals on the basis of race or ethnicity;
 - ii. any formulation of race-based diversity, equity and inclusion or intersectionality in contemporary American society beyond upholding the equal protection of the laws guaranteed by the Fourteenth Amendment of the U.S. Constitution; or
 - iii. the belief that a racially neutral or colorblind law, policy or institution perpetuates racial oppression, injustice, or race based privilege in contemporary American society;
- b) requiring or soliciting an individual to confess race-based privilege or discuss the individual's race, ethnicity or views on or experience with the race or ethnicity of others;
- c) giving preferable consideration to an individual for an opinion expressed or an act taken in support of another individual or a group of individuals if the consideration is based on the race or ethnicity of those individuals; or
- d) requiring enrollment in, or completion of, any training or course that promotes any of the tenants as outlined and as may be prescribed by the Legislature.

5. Includes, in the prohibition on spending public monies for promoting preferential treatment toward or discrimination against an individual on the basis of race or ethnicity:

- a) using any appropriated monies or any revenue that is derived from any tax, fee, grant, tuition, endowment, donation or any other source that is under the control of the institution or the institution's component units to promote or promulgate:
 - i. an effort to manipulate or otherwise influence the composition of the faculty or student body with reference to race, sex or ethnicity apart from ensuring colorblind and sex-neutral admissions and hiring in accordance with state and federal antidiscrimination laws;
 - ii. the differential treatment of or the provision of special benefits to individuals on the basis of race or ethnicity;
 - iii. policies or procedures that are designed or implemented in reference to race or ethnicity;
 - iv. training, programming or activities designed or implemented with reference to race, ethnicity, intersectionality, gender identity or sexual orientation; or
 - v. related practices or concepts as prescribed by the Legislature; and
- b) does not include:
 - i. academic course instruction, research or creative works by the institution's students, faculty or other research personnel and the dissemination of those times;
 - ii. activities of registered student organizations or arrangements for guest speakers and performers with short-term engagements; or
 - iii. mental or physical health services that are provided by a licensed professional.

6. Stipulates that the preferential treatment prohibition does not prohibit bona fide qualifications based on sex-specific spaces or designations that are reasonably necessary to the normal operation of public employment, public education or public contracting.

7. Stipulates that the preferential treatment prohibition does not prohibit action that must be taken to establish or maintain eligibility for any federal program if both:

- a) the ineligibility would result in a loss of federal monies to Arizona; and
- b) the action that would otherwise be prohibited is limited to outreach, advertising or communication efforts that do not modify any application criterion or the evaluation of any student, employee or candidate.

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8. Specifies that the preferential treatment prohibition does not invalidate any court order or consent decree that is in force as of December 14, 2010, rather than the statutory effective date.
9. Stipulates that the prohibition relating to preferential treatment and discrimination does not:
 - a) prohibit a qualification that is based on tribal membership as part of a program established to serve members of Indian tribes;
 - b) prohibit data collection, advertising or outreach as required by federal law;
 - c) prohibit mental or physical health services that are provided by a licensed professional;
 - d) include a training, program or activity developed by an attorney and approved in writing by the institution's general counsel and governing board for the sole purpose of ensuring compliance with any applicable court order or state or federal antidiscrimination law;
 - e) prohibit identifying and discussing historical movements, ideologies or instances of racial hatred or discrimination including slavery, Indian removal, the Holocaust or Japanese-American Internment; or
 - f) prevent the state from either doing or requiring an applicant, employee or contractor to:
 - i. disclose or discuss the content of the individual's scholarly research or creative works;
 - ii. certify compliance with state and federal antidiscrimination laws; or
 - iii. if expressly required by federal law, certify the existence of an affirmative action plan that does not include preferential treatment or individuals on the basis of race or ethnicity.
10. Makes technical and conforming changes.
11. Requires the Secretary of State to submit the proposition to the voters at the next general election.
12. Becomes effective if approved by the voters and on proclamation of the Governor.

House Action

GOV	2/12/25	DP	4-3-0-0
3 rd Read	2/25/25		33-27-0

Prepared by Senate Research
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AN/DL/slp