

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 870

By Senators Rucker, Taylor, Karnes, Roberts,

Maynard, Martin, Smith, and Stuart

[Introduced February 19, 2024; referred
to the Committee on Education; and then to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7, and
3 §16-67-8; to amend said code by adding thereto a new section, designated §18-2-9b; to
4 amend said code by adding thereto a new section, designated §18-5-29; to amend said
5 code by adding thereto a new article, designated §18B-1G-1, §18B-1G-2, §18B-1G-3,
6 §18B-1G-4, and §18B-1G-5; and to amend said code by adding thereto two new sections,
7 designated §18B-14-5 and §18B-14-6, all relating to Restoring Sanity Act; relating to
8 nondiscrimination; creating the Medical Personnel Protection Act; establishing purpose;
9 defining terms; requiring certain certifications by a medical institution of higher education;
10 requiring a medical institution of higher education to publish the titles and syllabi of all
11 mandatory courses, seminars, classes, workshops, and training sessions; prohibiting
12 internal diversity, equity, and inclusion audits or diversity, equity, and inclusion consultants;
13 requiring standardized admissions tests as requirement for admission; establishing
14 parameters for a medical institution of higher education to alter the academic standards for
15 the admission of new students; imposing diversity, equity, and inclusion related
16 requirement and restrictions on healthcare-related professional licensing boards and
17 organizations that issue healthcare-related professional licenses and certifications;
18 requiring medical providers and medical institutions of higher education to certify they do
19 not and will not require ascription to, the study of or instruction with, certain diversity,
20 equity, and inclusion material; imposing requirements on a state entity applying for a
21 federal healthcare-related grant related to diversity, equity, and inclusion; allowing action
22 against a healthcare provider or medical institution of higher education for a violation of
23 article; prohibiting a school district, a public charter school, the West Virginia Board of
24 Education, the West Virginia Department of Education, or any employee of the
25 aforementioned entities from providing instruction in, requiring instruction in, making part
26 of a course, or requiring a statement or affirmation by an employee of certain specified

27 concepts; prohibiting a state institution of higher education or any of its employees from
28 requiring a student or employee to take instruction in, or include in the curriculum of any
29 required course, or require a statement or affirmation by any student or employee that
30 certain specified concepts are factual and accurate or must be held as a belief of the
31 student or employee; defining terms; recognizing that state institutions of higher education
32 have an obligation to prohibit discrimination and have an obligation to protect the right to
33 free speech; clarifying what is not prohibited; establishing public elementary and
34 secondary school complaint and appeal procedures for alleged violations and complaint
35 reporting procedures; requiring each campus to report to the Higher Education Policy
36 Commission or the Council for Community and Technical College Education, a description
37 of any violations; requiring certain information on the complaints filed and reported
38 violations to be reported to the Legislative Oversight Commission on Education
39 Accountability; providing that neither county board or public charter school employees are
40 required to use a student's preferred pronoun when referring to the student if the preferred
41 pronoun is not consistent with the student's biological sex; prohibiting state institutions of
42 higher education from establishing, sustaining, supporting, or staffing a diversity, equity,
43 and inclusion officer or office; defining terms; stating what prohibition does not cover or
44 affect; prohibiting state institution of higher education from expending certain moneys until
45 a report is filed with the Joint Committee on Education; requiring a new report to be filed on
46 an annual basis; providing for enforcement; requiring reallocation of certain moneys that
47 would have been expended on diversity, equity, and inclusion offices or officers to merit
48 scholarships for lower-income and middle-income students and to reduce tuition and
49 mandatory fees for resident students; stating effective date; declaring the policy of the
50 state that the administrations of state institutions of higher education, and their
51 administrative units, be officially neutral with regard to certain widely contested opinions;
52 defining "diversity training"; prohibiting a diversity statement in certain instances;

53 prohibiting state institutions of higher education from giving preferential consideration to an
 54 applicant, student, staff member, or faculty member due to certain opinions expressed or
 55 actions taken.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 67. MEDICAL PERSONNEL PROTECTION ACT.

§16-67-1. Purpose.

1 The purpose of this article is to ensure that state-funded medical providers and educational
 2 institutions provide patient care, curricula, and training that serve patients and students equally,
 3 regardless of their race or other immutable characteristics, and to protect the practice of medicine
 4 and the education and training of medical personnel from the effects of harmful ideologies.

§16-67-2. Definitions.

1 As used in this article:

2 "Academic standards" means the grade point average, admissions standardized test
 3 score, or other objective metric used to measure a student's achievements for the purposes of
 4 admission into, advancement in, or graduation from a medical institution of higher education;

5 "Curriculum" means the subject matter studied within a healthcare-related academic
 6 program, including all materials used, instruction provided, and third-party educational services
 7 retained;

8 "Diversity, Equity, and Inclusion (DEI)":

9 (1) Means an effort to promote racial diversity in an aspect of a healthcare related
 10 academic program; a reference to group differences within a given setting along cultural, ethnic,
 11 gender, gender identity, national origin, race, religion, or sexual orientation lines; and promulgating
 12 policies, practices, and procedures designed or implemented with reference to those group
 13 differences; and

14 (2) Does not include equal opportunity or equal employment opportunity materials
 15 designed to inform individuals about the prohibition on discrimination based on protected status
 16 under state and federal law;

17 "Healthcare provider" means public hospitals and public healthcare providers, including,
 18 but not limited to, hospitals, doctors' offices, outpatient clinics, medical testing sites, medical labs,
 19 physical or occupational therapy or rehabilitation providers, chiropractors, dentists, optometrists,
 20 mental health and clinical social workers, and related providers;

21 "Healthcare-related academic program" means a healthcare-related area of study
 22 designed to prepare students for employment as or with a healthcare provider by conferring a
 23 degree or certification, including, but not limited to, nursing, pre-medical school majors, medical
 24 doctor degrees, psychiatry, clinical social work, dentistry, dental hygiene, physical or occupational
 25 therapy, chiropractic care, medical equipment technicians, and all other related fields;

26 "Healthcare-related professional licensing board" includes public licensing boards for
 27 audiology and speech pathology, chiropractic, dentistry, dietetics and nutrition, medicine,
 28 osteopathy, long-term care, mental health and human services, massage therapy, nursing,
 29 occupational therapy, optometry, pharmacology, physical therapy, podiatry, professional
 30 counseling, psychology, and social work; and

31 "Medical institution of higher education" means a state institution of higher education
 32 offering bachelor's, master's, or doctoral degrees; or a trade school offering healthcare-related
 33 degrees, certification programs, or training that receives state funds.

§16-67-3. Annual higher education certification.

1 (a) A medical institution of higher education shall annually certify to the Secretary of the
 2 Department of Health and the Higher Education Policy Commission or Council for Community and
 3 Technical College Education, as applicable, by December 31 that the institution does not require:

4 (1) Applicants to ascribe to DEI ideologies or discriminate against applicants who do not
 5 ascribe to DEI ideologies during the application process; or

6 (2) Admitted students to study or ascribe to DEI ideologies within the student's medical
7 institution of higher education.

8 (b) A medical institution of higher education shall publish the titles and syllabi of all
9 mandatory courses, seminars, classes, workshops, and training sessions on the institution's
10 website in an online database that is readily searchable by the public.

11 (c) A medical institution of higher education shall not conduct internal DEI audits or
12 otherwise engage DEI consultants.

§16-67-4. Standardized admissions test required.

1 (a) Medical institutions of higher education shall require a standardized admissions test
2 focused on knowledge and critical thinking around science and medical training, as a requirement
3 for admission.

4 (b) Before a medical institution of higher education may alter the academic standards for
5 the admission of new students to a healthcare-related course of study or for the conferral of a
6 healthcare-related degree or certificate, the medical institution of higher education shall submit to
7 the President of the Senate, the Speaker of the House of Delegates, and the Higher Education
8 Policy Commission or Council for Community and Technical College Education, as applicable:

9 (1) A copy of the proposed academic standards;

10 (2) A concise general statement explaining the proposed standards; and

11 (3) The proposed effective date of the proposed standards.

12 (c) The proposed standards described in subsection (b) of this section become effective no
13 earlier than 60 days after the medical institution of higher education has complied with subsection
14 (b).

15 (d) The proposed standards described in subsection (b) of this section do not become
16 effective if, within 60 days of receiving the information required in subsection (b) of this section, the
17 Legislature passes, and the governor approves, a joint resolution expressly disapproving the
18 proposed standards. If such a resolution is passed and approved, then the proposed standards

19 are null and void and of no effect.

§16-67-5. Prohibiting certain conditions for obtaining or renewing licenses.

1 (a) Healthcare-related professional licensing boards shall not adopt or impose, as a
2 condition of obtaining or renewing licenses, any incentives, or requirements that applicants for
3 licenses undergo, demonstrate familiarity with, or support any DEI training, education, material,
4 or program.

5 (b) Organizations that issue state-required, healthcare-related professional licenses and
6 certifications shall not use DEI material or require DEI training as part of the certification process.

7 (c) Healthcare-related professional licensing boards and organizations that issue
8 healthcare-related professional licenses and certifications shall not conduct internal DEI audits or
9 otherwise engage DEI consultants.

§16-67-6. Requiring certification regarding DEI material.

1 All medical providers and medical institutions of higher education shall certify to the
2 Secretary of the Department of Health on an annual basis by December 31 that they do not and
3 will not require their employees, contractors, volunteers, vendors, or agents to ascribe to, study, or
4 be instructed with DEI material with respect to state funds.

§16-67-7. Requirements regarding application for certain federal healthcare-related grants.

1 A state entity applying for a federal healthcare-related grant related to DEI shall:

2 (1) Publish on its website all materials, requirements, and instructions related to the federal
3 grant application that are in the entity's possession;

4 (2) Submit a copy of the grant proposal to the Secretary of the Department of Health for
5 public posting; and

6 (3) Submit a copy of the grant proposal to all members of the Joint Standing Committee on
7 Health.

§16-67-8. Allowing action against a healthcare provider or medical institution of higher education.

1 (a) An aggrieved person may commence an action against a healthcare provider or
2 medical institution of higher education for a violation of this article.

3 (b) If an aggrieved person proves that a healthcare provider or medical institution of higher
4 education violated this part, then the person may obtain:

5 (1) Declaratory relief;

6 (2) Injunctive relief;

7 (3) Statutory damages of not less than \$100,000 assessed against the healthcare provider
8 or medical institution of higher education found by a court to have violated this part;

9 (4) Compensatory damages; and

10 (5) Costs and attorney's fees.

11 (c) Sovereign immunity to suit is waived and abolished to the extent of liability created by
12 this part. A person having a claim under this part may sue a healthcare provider or medical
13 institution of higher education, which would otherwise be entitled to such immunity, for damages
14 allowed under this part.

15 (d) An aggrieved person must bring suit under this part no later than one year after the
16 alleged violation occurred.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2024.

1 (a) As used in this section:

2 (1) "Biological sex" means an individual's physical form as a male or female based solely
3 on the individual's reproductive biology and genetics at birth;

4 (2) "Ethnic group" means a category of population that is set apart and bound together by
5 common ties of race, language, nationality, or culture; and

6 (3) "Race" means any one of the groups that humans are often divided into based on

7 physical traits regarded as common among people of shared ancestry.

8 (b) A school district, a public charter school, the West Virginia Board of Education, the
9 West Virginia Department of Education, or any employee of the aforementioned entities may not
10 provide instruction in, require instruction in, make part of a course, or require a statement or
11 affirmation by any employee of the following concepts:

12 (1) One race, ethnic group, or biological sex is morally or intellectually superior to another
13 race, ethnic group, or biological sex for any inherent or innate reason;

14 (2) An individual, by virtue of the individual's race, ethnicity, or biological sex, is racist,
15 sexist, or oppressive, whether consciously or unconsciously for any inherent or innate reason;

16 (3) An individual should be discriminated against or receive adverse treatment solely or
17 partly because of the individual's race, ethnicity, or biological sex;

18 (4) An individual's moral character is strongly influenced by the individual's race, ethnicity,
19 or biological sex;

20 (5) An individual, by virtue of the individual's race, ethnicity, or biological sex, bears
21 responsibility for actions committed by other members of the same race, ethnic group, or biological
22 sex;

23 (6) An individual should feel discomfort, guilt, anguish, or any other form of psychological
24 distress because of the individual's race, ethnicity, or biological sex; and

25 (7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or
26 sexist or were created by members of a particular race, ethnic group, or biological sex to oppress
27 members of another race, ethnic group, or biological sex.

28 (c) Nothing in subsection (b) of this section prohibits:

29 (1) The discussion of those concepts in theory as part of an academic course if discussion
30 of alternative theories is also included in the course;

31 (2) The discussion, examination and debate that race, ethnicity, or biological sex has
32 impacted historical or current events, including the causes of those current or historical events;

33 and

34 (3) The right to freedom of speech protected by the First Amendment of the United States
35 Constitution and the West Virginia Constitution outside the context of employment with any school
36 district or public charter school.

37 (d) Any student, parent, or guardian of a student, or employee aggrieved by an alleged
38 violation of this section may file a complaint with the school principal. Any complainant, upon an
39 adverse ruling or no ruling within 10 business days by the school principal, may file an appeal to
40 the county superintendent except that in the case of a student enrolled in or an employee of a
41 public charter school, the complainant may file an appeal to the authorizer. Any complainant, upon
42 an adverse ruling or no ruling within 10 business days by the county superintendent or public
43 charter school authorizer, may file an appeal to the state superintendent. The state superintendent
44 shall make forms available for students, parents or guardians of a student, and employees to file
45 complaints and appeals pursuant to this subsection. Each school principal shall report the number
46 of complaints filed with him or her the previous school year, the nature of each complaint, and the
47 resolution of each complaint to the county superintendent annually by August 1. The county
48 superintendent shall report the number of complaints filed in his or her county the previous school
49 year, the nature of each complaint, and the resolution of each complaint to the state
50 superintendent annually by September 1. The state superintendent, or his or her designee shall
51 report to the Legislative Oversight Commission on Education Accountability the number of
52 complaints filed during the previous school year statewide and by county, the nature of each
53 complaint, and the resolution of each complaint annually by October 1.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-29. Preferred gender pronouns.

1 The Legislature finds that:

2 (a) County board and public charter school employees should never be compelled to affirm
3 a belief with which they disagree.

4 (b) For the purposes of this section, the term "biological sex" means an individual's
5 physical form as a male or female based solely on the individual's reproductive biology and
6 genetics at birth.

7 (c) County board and public charter school employees are not:

8 (1) Required to use a student's preferred pronoun when referring to the student if the
9 preferred pronoun is not consistent with the student's biological sex;

10 (2) Civilly liable for using a pronoun that is consistent with the biological sex of the student
11 to whom the teacher or employee is referring, even if the pronoun is not the student's preferred
12 pronoun; and

13 (3) Subject to an adverse employment action for not using a student's preferred pronoun if
14 the student's preferred pronoun is inconsistent with the student's biological sex.

15 (d) A county board or public charter school is not civilly liable if a county board or public
16 charter school employee refers to a student using a pronoun that is consistent with the biological
17 sex of the student to whom the employee is referring, even if the pronoun is not the student's
18 preferred pronoun.

19 (e) No county board or public charter school may establish a policy or take any action that
20 is contrary to this section.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1G. INCLUSION OFFICES AND OFFICERS PROHIBITED.

§18B-1G-1. Definitions.

1 As used in this chapter:

2 (a) "Diversity, equity, and inclusion" includes all of the following:

3 (1) Any effort to manipulate or otherwise influence the composition of the faculty or student
4 body with reference to race, sex, color, gender identity, sexual orientation, or ethnicity, apart from
5 ensuring colorblind and sex-neutral admissions and hiring in accordance with state and federal

6 anti-discrimination laws;

7 (2) Any effort to promote differential treatment of or provide special benefits to individuals
8 on the basis of race, color, or ethnicity;

9 (3) Any effort to promote or promulgate policies and procedures designed or implemented
10 with reference to race, color, or ethnicity;

11 (4) Any effort to promote or promulgate trainings, programming, or activities designed or
12 implemented with reference to race, color, ethnicity, gender identity, or sexual orientation; and

13 (5) Any effort to promote, as the official position of the state institution of higher education,
14 a particular, widely contested opinion referencing unconscious or implicit bias, cultural
15 appropriation, allyship, transgender ideology, microaggressions, group marginalization, anti-
16 racism, systemic oppression, social injustice, intersectionality, neo-pronouns, heteronormativity,
17 disparate impact, gender theory, racial privilege, sexual privilege, or any related formulation of
18 these concepts;

19 (b) "Diversity, equity, and inclusion office" means any division, office, center, or other unit of
20 a state institution of higher education that is responsible for creating, developing, designing,
21 implementing, organizing, planning, or promoting policies, programming, training, practices,
22 activities, or procedures related to diversity, equity, and inclusion;

23 (c) "Diversity, equity, and inclusion office" does not include any of the following:

24 (1) An office staffed exclusively by licensed attorneys and paralegal and secretarial
25 support for the licensed attorneys, operating with the sole and exclusive mission of ensuring legal
26 compliance under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681, et
27 seq., as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 et
28 seq., as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.,
29 as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West
30 Virginia Human Rights Act, West Virginia Code §5-11-1, et seq., or any other applicable federal or
31 state law or court order;

32 (2) An academic department within a state institution of higher education that exists
33 primarily for the purpose of offering courses for degree credit and that does not establish a policy
34 or procedures to which other departments of the public institutions of higher education are subject;

35 (3) An office solely engaged in new student recruitment;

36 (4) A registered student organization; or

37 (5) An office that a state institution of higher education is required to maintain pursuant to a
38 contract or agreement with a federal governmental entity;

39 (d) "Diversity, equity, and inclusion officer" means an individual who is either employed by a
40 state institution of higher education or who is an independent contractor of a state institution of
41 higher education and whose duties include coordinating, creating, developing, designing,
42 implementing, organizing, planning, or promoting policies, programming, training, practices,
43 activities, and procedures relating to diversity, equity, and inclusion;

44 (e) "Diversity, equity, and inclusion officer" does not include any of the following:

45 (1) Any employee who is a licensed attorney and whose sole job duties related to diversity,
46 equity, and inclusion are to ensure compliance with the state institution of higher education's
47 obligations under Title IX of the federal Education Amendments Act of 1972, 20 U.S.C. §1681, et
48 seq., as amended, the federal Age Discrimination in Employment Act of 1972, 20 U.S.C. §1681 et
49 seq., as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.,
50 as amended, the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, the West
51 Virginia Human Rights Act, §5-11-1, et seq. of this code, or any other applicable federal or state
52 law or court order;

53 (2) Any faculty member while engaged in teaching, research, or the production of creative
54 works, the dissemination of the faculty member's research or creative works, or advising a
55 registered student organization;

56 (3) A guest speaker or performer with a short-term engagement; or

57 (4) Any employee that a state institution of higher education is required to employ pursuant

58 to a contract or agreement with a federal governmental entity.

59 (f) "State institution of higher education" means an institution of higher education means
60 any university, college, or community and technical college under the jurisdiction of a governing
61 board as defined in §18B-1-2 of this code.

§18B-1G-2. Restrictions; reporting.

1 (a) A state institution of higher education shall not establish, sustain, support, or staff a
2 diversity, equity, and inclusion officer or office.

3 (b) Subsection (a) shall not be construed to cover or affect a state institution of higher
4 education's support or funding of any of the following:

5 (1) Academic course instruction;

6 (2) Research or creative works by the state institution of higher education's students,
7 faculty, or other research personnel, and the dissemination of such research or creative works;

8 (3) Activities of registered student organizations;

9 (4) Arrangements for guest speakers and performers with short-term engagements;

10 (5) Mental or physical health services provided by licensed professionals;

11 (6) Policies, programming, training, practices, activities, or procedures related to diversity,
12 equity, and inclusion that are required pursuant to a contract or agreement with a federal
13 governmental entity; or

14 (7) Sex based educational opportunities such as science, technology, engineering, and
15 mathematics (STEM) opportunities for women.

16 (c) (1) A state institution of higher education shall not expend any moneys appropriated by
17 the Legislature for the fiscal year beginning on or after July 1, 2024, until the state institution of
18 higher education files with the Joint Committee on Education a report that discloses all of the
19 following:

20 (A) The steps taken by the academic institution of higher education and its staff,
21 administration, and faculty to comply with subsection (a); and

22 (B) The amount and job titles of the individuals deemed to be required by the state
 23 institution of higher education to comply with Title IX of the federal Education Amendments Act of
 24 1972, 20 U.S.C. §1681, et seq., as amended, the federal Americans with Disabilities Act of 1990,
 25 42 U.S.C. §12101, et seq., as amended, the federal Age Discrimination in Employment Act of
 26 1972, 20 U.S.C. §1681 et seq., as amended, , the federal Civil Rights Act of 1964, Pub. L. No. 88-
 27 352, as amended, the West Virginia Human Rights Act, §5-11-1, et seq. of this code, or any other
 28 applicable federal or state law or court order.

29 (2) The report described in subdivision (1) of this subsection shall certify that the state
 30 institution of higher education is fully compliant with subsection (a).

31 (3) The state institution of higher education shall publish the report described in subdivision
 32 (1) of this subsection on the institution of higher education's webpage.

33 (4) The state institution of higher education shall file on an annual basis a new report as
 34 described in subdivision (1) of this subsection and with the certification described in subdivision (2)
 35 of this subsection.

§18B-1G-3. Enforcement; venue.

1 (a) Any person may notify the attorney general of a state institution of higher education's
 2 potential violation of §18B-1G-2 of this code. The attorney general may bring an action against a
 3 state institution of higher education for a writ of mandamus to compel the state institution of higher
 4 education to comply with §18B-1G-2 of this code.

5 (b) A student enrolled in a state institution of higher education, a faculty member of a state
 6 institution of higher education, or an alumnus of a state institution of higher education alleging a
 7 violation of §18B-1G-2 of this code may bring a civil action for injunctive relief against the state
 8 institution of higher education to prohibit that state institution of higher education from continuing
 9 such violation.

10 (c) An action brought under this section may be filed in any of the following:

11 (1) The county in which all or a substantial part of the events or omissions giving rise to the

12 action occurred;

13 (2) The county in which the principal office of the state institution of higher education is
14 located; or

15 (3) The county in which the claimant resides, if the claimant is a resident of West Virginia.

§18B-1G-4. Spending.

1 Public institutions of higher education shall reallocate all unexpended moneys
2 appropriated by the Legislature in fiscal year 2024-2025 that would have been expended on
3 diversity, equity, and inclusion offices or diversity, equity, and inclusion officers on or after the
4 effective date of this Act to merit scholarships for lower-income and middle-income students and to
5 reduce tuition and mandatory fees for resident students.

§18B-1G-5. Effective date.

1 This Act shall be effective from the date of passage.

ARTICLE 14. MISCELLANEOUS.
§18B-14-5. Anti-Racism Act of 2024.

1 (a) As used in this section:

2 (1) "Biological sex" means an individual's physical form as a male or female based solely
3 on the individual's reproductive biology and genetics at birth;

4 (2) "Ethnic group" means a category of population that is set apart and bound together by
5 common ties of race, language, nationality, or culture; and

6 (3) "Race" means any one of the groups that humans are often divided into based on
7 physical traits regarded as common among people of shared ancestry.

8 (b) State institutions of higher education in this state have an obligation to prohibit, among
9 other things, discrimination on the basis of race, ethnicity, and biological sex in the administration
10 of their education programs, activities, or with respect to admission or employment.

11 (c) State institutions of higher education have an obligation to protect the right to free
12 speech and expression protected by the First Amendment of the United States Constitution, the

13 West Virginia Constitution, and the provisions of §18B-20-1, et seq. As part of that commitment,
14 state institutions of higher education must be committed to the principle that debate or deliberation
15 may not be suppressed because the ideas put forth are thought by some or even by most
16 members of the university community to be offensive, unwise, immoral, or misguided and that it is
17 for the individual members of the university community, not for the university as an institution, to
18 make those judgements for themselves.

19 (d) Except as provided in subsection (e) of this section, a state institution of higher
20 education or any employee of a state institution of higher education may not require a student or
21 employee to take instruction in, or include in the curriculum of any required course, or require a
22 statement or affirmation by any student or employee that the following concepts are factual and
23 accurate or must be held as a belief of the student or employee:

24 (1) One race, ethnic group, or biological sex is morally, or intellectually superior to another
25 race, ethnic group, or biological sex for any inherent or innate reason;

26 (2) An individual, by virtue of the individual's race, ethnicity, or biological sex, is racist,
27 sexist, or oppressive, whether consciously or unconsciously for any inherent or innate reason;

28 (3) An individual should be discriminated against or receive adverse treatment solely or
29 partly because of the individual's race, ethnicity, or biological sex;

30 (4) An individual's moral character is strongly influenced by the individual's race, ethnicity,
31 or biological sex;

32 (5) An individual, by virtue of the individual's race, ethnicity, or biological sex, bears
33 responsibility for actions committed by other members of the same race, ethnic group, or biological
34 sex;

35 (6) An individual has an obligation to feel discomfort, guilt, anguish, or any other form of
36 psychological distress because of the individual's race, ethnicity, or biological sex; and

37 (7) Academic achievement, meritocracy, or traits such as a hard work ethic are racist or
38 sexist or were created by members of a particular race, ethnic group, or biological sex to oppress

39 members of another race, ethnic group, or biological sex.

40 (e) Nothing in subsection (d) of this section prohibits:

41 (1) The discussion of those concepts in theory as part of an academic course if discussion
42 of alternative theories is also included in the course;

43 (2) The discussion, examination, and debate that race, ethnicity, or biological sex has
44 impacted historical or current events, including the causes of those current or historical events;
45 and

46 (3) The right to freedom of speech protected by the First Amendment of the United States
47 Constitution, the West Virginia Constitution, and the §18B-20-1, et seq. outside of the context of
48 employment with any state institution of higher education.

49 (f) Each campus shall report to the Higher Education Policy Commission or the Council for
50 Community and Technical College Education, as applicable, a description of any violations of this
51 section. The description shall include the nature of each incident, as well as what disciplinary
52 action, if any, was taken against members of the campus community determined to be responsible
53 for those specific incidents of violation and shall be reported without revealing personally
54 identifiable information annually, by August 1. The commission and council shall then report to the
55 Legislative Oversight Commission on Education Accountability any violations reported to them
56 pursuant to this subsection.

§18B-14-6. Nondiscrimination.

1 (a) It is the policy of the state that the administrations of state institutions of higher
2 education, and their administrative units, be officially neutral with regard to widely contested
3 opinions in the state regarding unconscious or implicit bias, cultural appropriation, identity group
4 allyship, transgender ideology, micro aggressions, group marginalization, ant-racism, systemic
5 oppression, social justice, intersectionality, neo-pronouns, heteronormativity, gender theory, racial
6 or sexual privilege, critical race theory, and any related formulation of these concepts.

7 (b) "Diversity training" means:

8 (1) Training toward any diversity, equity, and inclusion activity which is any effort to:

9 (A) Manipulate or otherwise influence the composition of the faculty or student body with
10 reference to race, sex, color, or ethnicity, apart from ensuring colorblind and sex-neutral
11 admissions and hiring in accordance with state and federal anti-discrimination laws;

12 (B) Engage in, or promote or promulgate policies for, differential attention to, treatment of,
13 or provision of special benefits to, individuals or groups on the basis of race, color, or ethnicity, or of
14 sex except where permitted by law; or

15 (C) Promote as the official position of the institution or component thereof, or of the
16 administration, or develop or engage in training, programming, or activities promoting, a widely
17 contested opinion in contravention of the neutral educational policy of this state as described in
18 subsection (a) of this section; or

19 (2) Training from an administrative official or administrative unit of an institution that
20 involves one or more of the following interrelated concepts:

21 (A) The nation, the state, American or state culture, society in general is based on or
22 significantly influence by present-day institutional structures or relations of power, privilege,
23 subordination, or oppression that operate on the basis of race, sex, color, gender, ethnicity, gender
24 identity, or sexual orientation, or any intersection of these classes;

25 (B) Differential treatment or special benefits should be conferred on the basis of race sex,
26 color, gender, ethnicity, gender identity, or sexual orientation; or

27 (C) Training from an administrative official or administrative unit of an institution to
28 recognize or understand unconscious or implicit bias, cultural appropriation, identity group
29 allyship, microaggressions, micro-invalidating, group marginalization, anti-racism, systemic
30 oppression, structural racism, structural inequity, transphobia, homophobia, heteronormativity,
31 racial or sexual privilege, social justice, intersectionality, neo-pronouns, inclusive language,
32 gender identity, gender theory, or related formulation of these concepts.

33 (c) No diversity statement shall ever be required or solicited as part of an admissions

34 process, employment application process, hiring process, contract renewal process, or promotion
35 process; or as a condition of participation in any administrative or decision-making function of any
36 public institution of higher education.

37 (d) No public institution of higher education shall give preferential consideration to an
38 applicant, student, staff member, or faculty member due to any opinion expressed or action taken
39 in support of another individual or a group of individuals on the basis of race, sex, color, ethnicity,
40 gender identity, or sexual orientation.

NOTE: The purpose of this bill is to establish the Anti-Woke Act; prohibit a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by any employee certain concepts; prohibit a state institution of higher education and an employee of a state institution of higher education from requiring a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that certain concepts are factual and accurate or must be held as a belief of the student or employee; provide that county board and public charter school employees are not required to use student's preferred pronoun when referring to the student if the preferred pronoun is not consistent with the student's biological sex; prohibit a state institution of higher education from establishing, sustaining, supporting, or staffing a diversity, equity, and inclusion officer or office; and declare the policy of the state that the administrations of state institutions of higher education, and their administrative units, be officially neutral with regard to certain widely contested opinions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.