

SENATE BILL NO. 326

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (26).

0585S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 173, RSMo, by adding thereto one new section relating to prohibiting ideological discrimination in postsecondary education.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 173, RSMo, is amended by adding thereto one new section, to be known as section 173.2176, to read as follows:

173.2176. 1. As used in this section, the following terms mean:

(1) "Applicant", an individual or entity that applies to an institution for employment, admission, or as a potential contractor;

(2) "Contractor", an individual or entity engaged by an institution for the purpose of providing goods or services to such institution but that is not an employee of such institution;

(3) "Discriminatory ideology", an ideology that promotes the differential treatment of any individual or group of individuals based on immutable characteristics of race, color, religion, sex, gender, ethnicity, national origin, or ancestry;

(4) "Diversity, equity, and inclusion statement", a written or oral communication relating to the applicant's, employee's, student's, or contractor's:

18 (a) Race, color, religion, sex, gender, ethnicity,
19 national origin, or ancestry, except when necessary to
20 record required demographic information of such individual;

21 (b) Views on, experience with, or past or planned
22 contributions to efforts involving:

23 a. Diversity, equity, and inclusion;

24 b. Marginalized groups;

25 c. Antiracism;

26 d. Social justice;

27 e. Intersectionality; or

28 f. Related concepts; or

29 (c) Views on or experience with race, color, religion,
30 sex, gender, ethnicity, national origin, ancestry, or other
31 immutable characteristics of students and coworkers;

32 (5) "Employee", an individual employed by an
33 institution;

34 (6) "Entity", a corporation, partnership, limited
35 liability company, business trust, trust, association, other
36 organization, other legal entity, or a protected series or
37 registered series of a domestic limited liability company;

38 (7) "Institution", any public institution of
39 postsecondary education or proprietary school in this state
40 that is subject to the coordinating board for higher
41 education under section 173.005;

42 (8) "Preferential consideration", any act that
43 positively impacts an individual's or entity's admission to,
44 employment with, engagement as a contractor by, or promotion
45 within an institution including, but not limited to:

46 (a) Applications for admissions, aid, assistance, and
47 benefits for which the individual or entity is eligible; and

48 (b) Employment terms, benefits, seniority status,
49 promotions, transfers, and appointments for which the
50 individual or entity is eligible;

51 (9) "Proprietary school", the same definition as in
52 section 173.600;

53 (10) "Student", an individual enrolled as a student at
54 an institution.

55 2. No institution shall:

56 (1) Compel, require, induce, or solicit any applicant,
57 employee, student, or contractor to endorse any
58 discriminatory ideology;

59 (2) Compel, require, induce, or solicit any applicant,
60 employee, student, or contractor to submit a diversity,
61 equity, and inclusion statement; or

62 (3) Provide preferential consideration to any
63 applicant, employee, student, or contractor on the basis of
64 such individual's or entity's submission of an unsolicited
65 statement relating to a discriminatory ideology.

66 3. No provision of this section shall be construed to:

67 (1) Restrict academic research or coursework;

68 (2) Prevent an institution from requiring an applicant
69 to:

70 (a) Disclose or discuss the content of such
71 applicant's research or artistic creations;

72 (b) Certify compliance with any state and federal
73 antidiscrimination law; or

74 (c) Discuss pedagogical approaches or experience with
75 students with learning disabilities; or

76 (3) Prevent an applicant or candidate from providing,
77 on such applicant's or candidate's own initiative and under
78 no specific requirement or request from the institution, any
79 information described in subsection 2 or 3 of this section.

80 4. (1) An applicant, employee, student, or contractor
81 who is compelled, required, induced, or solicited to endorse
82 a discriminatory ideology or submit a diversity, equity, and
83 inclusion statement or who is adversely affected by an
84 institution's preferential consideration of another for such
85 individual's or entity's unsolicited statement relating to a
86 discriminatory ideology in violation of subsection 2 or 3 of
87 this section may pursue an action for injunctive or
88 declaratory relief against such institution.

89 (2) An injunction granted under this subsection in
90 favor of an applicant, employee, student, or contractor
91 against an institution because of a violation of subsection
92 2 or 3 of this section may include an order requiring the
93 institution to:

- 94 (a) Admit the applicant for enrollment as a student;
95 (b) Reenroll a student who was suspended or expelled;
96 (c) Hire an individual for the position for which such
97 individual's employment application was rejected;
98 (d) Rehire in the same or equal position an employee
99 who was dispossessed of such employee's job;
100 (e) Promote an employee who was denied a promotion; or
101 (f) Provide tenure to an employee who was denied
102 tenure.

103 (3) All claims of sovereign or governmental immunity
104 for an institution relating to claims filed under this
105 subsection against such institution are hereby waived.

106 (4) Notwithstanding any other provision of law to the
107 contrary, an individual or entity may commence an action
108 under this subsection and relief may be granted regardless
109 of whether such individual or entity seeks or exhausts other
110 available administrative or legal remedies.

111 (5) The court may award reasonable attorney's fees and
112 court costs to the prevailing party.

113 5. (1) Any employee, whether tenured, employed at-
114 will, or working under a contract, who violates this
115 subsection shall be disciplined by the employee's employer
116 for the reasons and in the manner provided under
117 subdivisions (2) and (3) of this subsection.

118 (2) An employer shall discipline an employee described
119 in subdivision (1) of this subsection as provided in
120 subdivision (3) of this subsection if such employee is found
121 to have:

122 (a) Compelled, required, or induced an applicant,
123 employee, student, or contractor to endorse a discriminatory
124 ideology or provide a diversity, equity, and inclusion
125 statement; or

126 (b) Provided preferential consideration to an
127 applicant, employee, student, or contractor on the basis of
128 such individual's or entity's submission of an unsolicited
129 statement relating to a discriminatory ideology.

130 (3) (a) Upon a first finding that an employee has
131 engaged in conduct described in subdivision (2) of this
132 subsection, such employee shall be placed on unpaid leave
133 for the next academic year and shall be ineligible for
134 employment at any other institution in this state during
135 such unpaid leave.

136 (b) Upon a second or subsequent finding that such
137 employee has engaged in conduct described in subdivision (2)
138 of this subsection, such employee shall be terminated from
139 employment and shall be ineligible for employment at any
140 institution in this state for at least five years after the
141 date of the second or subsequent finding.

142 6. Each institution's office of general counsel or
143 substantially equivalent office shall annually submit a
144 written report on compliance with this section to the
145 speaker of the house of representatives and senate president
146 pro tempore.

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