

SENATE BILL 2351

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 7, relative to the antidiscrimination
practices of institutions of higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "State Primacy in Designating Protected Classes in Higher Education Act."

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding the following new part:

49-7-2501.

Public institutions of higher education and private institutions of higher education in this state that receive funding from this state to support the institution's educational programs, mission, or offerings shall not, whether by rule, policy, resolution, or any other means available to the institution:

(1) Define a discriminatory practice in, or for purposes of, the institution's antidiscrimination practices, standards, rules, policies, or otherwise in a manner that modifies, supplements, or deviates, in any way, from the definition of discriminatory practice in § 4-21-102; or

(2) Establish or recognize a form of discrimination in, or for purposes of, the institution's antidiscrimination practices, standards, rules, policies, or otherwise in a manner that modifies, supplements, or deviates, in any way, from the forms of discrimination recognized by this state, and only to the extent such forms of discrimination are recognized by this state as legally actionable.

49-7-2502.

(a) Notwithstanding § 49-7-202 or another law to the contrary, the Tennessee higher education commission shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish a complaint system for a person with actual or constructive knowledge of a violation of § 49-7-2501 to file a complaint with the commission alleging the violation. The commission shall investigate each complaint filed with the commission pursuant to this section and shall require an institution take the corrective actions the commission determines necessary if the allegations of the complaint are supported by a preponderance of the evidence.

(b) Notwithstanding another law to the contrary:

(1) The complaint system established by the commission in its rules must apply to each public institution of higher education and each private institution of higher education in this state that receives funding from this state to support the institution's educational programs, mission, or offerings;

(2) The complaint system must:

(A) Allow a person with actual or constructive knowledge of a violation of § 49-7-2501 to file a complaint with the commission alleging the violation without fear of retribution, demotion, withheld promotion, loss of earned academic credit, unwarranted transfer or reassignment, or any other negative consequence or action that may be imposed or sanctioned by the institution that is the subject of the complaint;

(B) Ensure that each person who files a complaint with the commission alleging a violation of § 49-7-2501 obtains an impartial and comprehensive investigation of each violation alleged; and

(C) Consist of standardized and impartial procedures for:

(i) An unbiased and adequate investigation of each

violation alleged in a complaint filed with the commission; and

(ii) A complainant to appeal a determination made by the commission at the conclusion of its investigation, or to appeal the adequacy of the corrective actions, if any, required of an institution found to have violated § 49-7-2501; and

(3) Each public institution of higher education and each private institution of higher education in this state that receives funding from this state to support the institution's educational programs, mission, or offerings shall:

(A) Collect, retain, and submit to the commission all evidence determined by the commission to be relevant to the commission's investigation of the institution's alleged violation of § 49-7-2501;

(B) Protect the legal rights of each person or organization under investigation or that may be providing evidence to the commission to assist the commission in the commission's investigation;

(C) Provide oversight, as deemed necessary by the commission, to ensure that the commission receives the access required for the commission's objective evaluation and analysis of the findings of its investigation, to deliberate whether the institution violated § 49-7-2501 as alleged in the complaint, and to ensure the corrective actions, if any, required by the commission are unbiased and fair;

(D) Provide timely and accurate responses to requests from the commission made during its investigation of a complaint alleging a violation of § 49-7-2501 or during its review or reconsideration of the evidence as part of an appeal filed by a complainant; and

(E) Advise complainants of the available appeals process.

(c) The commission shall report, for each public institution of higher education and each private institution of higher education in this state that receives funding from this state to support the institution's educational programs, mission, or offerings, the number of complaints filed with the commission alleging that the institution violated § 49-7-2501; the general nature of each complaint filed; and the commission's determination at the conclusion of its investigation of the complaint to the chair of the senate education committee, the chairs of the education committees of the house of representatives, the chairs of the government operations committees of the senate and the house of representatives, and the comptroller of the treasury no later than October 1, 2025, and by each October 1 thereafter.

49-7-2503.

If the commission determines that a public institution of higher education or a private institution of higher education in this state that receives funding from this state to support the institution's educational programs, mission, or offerings is not complying with the requirements of this part, then the commission may notify the treasurer and the department of finance and administration, in writing, of the institution's noncompliance. Upon receiving such notification, the treasurer or the department, as applicable, shall withhold all or a portion of any funds appropriated to the respective institution that have not been allocated to the institution until the commission notifies the treasurer or the department, as applicable, that the institution is complying with the requirements of this part, at which time any funds withheld from the institution may be released.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. The Tennessee higher education commission shall promulgate rules, including emergency rules, to effectuate this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2024-2025 academic year and each academic year thereafter.