

SENATE BILL 817

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7 and Title 49, Chapter 8, relative to 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 "Tennessee Higher Education Freedom of Expression and Transparency Act."

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 7, Part 19, is amended by designating Section 49-7-1907 as Section 49-7-1908 and adding the following as a new Section 49-7-1907:

(a) The general assembly finds that:

(1) Freedom of expression and inquiry at public institutions of higher education are indispensable to the pursuit of educational excellence and the furtherance of the ordered individual liberty established in our nation's founding documents;

(2) Public institutions of higher education have a duty to promote and defend freedom of expression and inquiry, and the societal consensus on the ordered individual liberty established in our nation's founding documents that sustain it;

(3) Public institutions of higher education should seek and foster intellectual diversity among administrators, faculty, students, and employees;

(4) Positively or negatively incentivizing, informally pressuring, or otherwise compelling students or employees of a public institution of higher

education to embrace divisive concepts is contrary to the mutual respect and collegial processes essential to the free exchange of ideas;

(5) Measures taken to ensure non-discrimination cannot be allowed to undermine the principles of merit and excellence in the core activities of public institutions of higher education; and

(6) Increased institutional transparency and oversight are needed to lessen the risk of diminished excellence resulting from the imposition or advocacy of divisive concepts.

(c) A student or employee of a public institution of higher education who believes that a violation of § 49-7-1903 has occurred may file a report of the alleged violation with the institution. The institution shall maintain the filed report and make the report available for public inspection on the institution's website. A filed report must be redacted, if necessary, to ensure compliance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g); § 10-7-504; and all other relevant privacy laws.

(d)

(1) For purposes of approving or scheduling usage of the institution's property, an institution shall not show bias or favoritism:

(A) For a student group that is peaceful and requests to use the institution's property in a peaceful and lawful manner;

(B) Based upon a guest speaker's or a guest speaker's student-sponsoring group's viewpoint, race, creed, color, religion, non-violent political ideology, or non-violent political party affiliation; or

(C) For a student group that, or a guest speaker who, intends to maintain a peaceful campus presence and peaceful use of the institution's

property because the institution receives threatened simple breaches of the peace or non-destructive disruptions from groups or individuals who oppose the student group's or guest speaker's presence on campus.

(2) A public institution of higher education shall not:

(A) Require a student group to pay fees or security deposits that are not charged to all other student groups; or

(B) Deny a student group access to the institution's property, if the property is routinely used by other student groups.

(3) Notwithstanding subdivision (d)(1), a public institution of higher education may restrict or deny use of the institution's property for public displays, organized public gatherings, or public demonstrations if the display, gathering, or demonstration would violate § 39-17-902.

(e)

(1) In order to assess the extent to which a divisive concept may have been included or has otherwise affected the curriculum, each public institution of higher education shall publish a current syllabus for each course offered in the current semester at the institution on the institution's website no later than the seventh (7th) business day following the first day of class for the respective semester.

(2) Each syllabus published pursuant to subdivision (e)(1) must include:

(A) The title and catalog description of the course;

(B) The course instructor's name;

(C) The course's required or elective status for relevant majors or general education;

(D) A brief description of each assignment, examination, lecture, discussion, or other class activity;

(E) The title of each book that is assigned or recommended for the course, including any textbook or workbook; and

(F) The final grades for the three (3) most recent semesters that the course was offered.

(f) In order to assess the extent to which learning outcomes may have been affected by the inclusion of a divisive concept in the student learning experience, the Tennessee higher education commission may promulgate rules to require public institutions of higher education to submit data and information requested by the commission in a standardized format to allow the commission to provide an online organized data compilation that details the following:

(1) The number of students who completed a program at the institution for the three (3) most recent academic years, disaggregated by underserved minority students; and

(2) The students', identified in subdivision (f)(1), results on a nationally recognized assessment that assesses a student's readiness for postsecondary education, if available to the school, and the students' final grade point average.

(g) The commission shall promulgate rules, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of this act. The rules must:

(1) Establish a process by which a person may file a report pursuant to subsection (c);

(2) Require each public institution of higher education that receives a report to investigate the report;

(3) Create a corrective action plan for an institution that discovers a violation of this part during, or at the conclusion of, the institution's investigation; and

(4) Create a reporting requirement for reports filed pursuant to subsection (c), the subsequent investigations, and any corrective action plans developed pursuant to rules promulgated pursuant to this subsection (g).

SECTION 3. Tennessee Code Annotated, Section 49-7-1904(a), is amended by adding the following as a new subdivision:

(4) Approve or use state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization that endorses or promotes a divisive concept.

SECTION 4. Tennessee Code Annotated, Section 49-7-1904, is amended by deleting subsection (b) and substituting:

(b) If a public institution of higher education employs an individual whose primary or secondary job duties or job title includes diversity, equity, or inclusion, then:

(1) The employee's duties must include specific tasks and efforts to strengthen and increase intellectual diversity and individual liberty among the students, faculty, and employees of the institution with divergent points of view to facilitate the free and respectful exchange of ideas; and

(2) The employee shall allocate at least fifty percent (50%) of the employee's duties to mentoring, providing academic coaching, and providing related learning support activities necessary for the academic success of students who are eligible to receive a federal Pell grant. The employee shall document the allocation of the employee's duties to ensure compliance with this subdivision (b)(2).

SECTION 5. Tennessee Code Annotated, Section 49-7-1904, is amended by adding the following as a new subsection:

(c)

(1) A public institution of higher education shall notify new students, faculty, and employees of the institution of the restrictions in § 49-7-1903 and the definition of divisive concepts in § 49-7-1904 on the institution's website, on all introductory materials provided to the new student, faculty, or employee, and in introductory meetings with the new student, faculty, or employee.

(2) Each public institution of higher education shall annually submit a report to the Tennessee higher education commission on the implementation of subdivision (c)(1).

SECTION 6. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.