

SENATE BILL 856

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1 and Title 49, Chapter 7, relative to education.

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, Part 2, is amended by adding the following as a new section:

(a)

(1) The department of education shall promulgate rules no later than September 1, 2021, to regulate how the department's office for civil rights effectuates the office's duty to:

(A) Ensure that the department complies with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681); and

(B) Assist programs that receive funding from the department to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681).

(2) Rules promulgated pursuant to this subsection (a) must:

(A) Comply with the United States Code, the Code of Federal Regulations (CFR), and state law;

(B) Not include policy guidance issued by the United States department of education;

(C) Be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The

department shall not implement any change to a rule promulgated pursuant to this subsection (a) by proposed rules without public hearing or by adopting emergency rules after initial rules are adopted, unless:

(i) The rule is required by the constitution or a court order;

or

(ii) The rule is required by an agency of the federal government through a change in the CFR, and adoption of the rule through nonemergency rulemaking procedures described in title 4, chapter 5, jeopardize the loss of a federal program or federal funds;

(D) Include:

(i) An accounting methodology to ensure compliance with § 4-4-123(b);

(ii) Protections pursuant to §§ 49-6-2902(a), 49-6-2904(a)(3), and 49-6-8002; and

(iii) Protections to avoid offenses under §§ 39-13-511 and 39-13-607.

(b)

(1) The comptroller of the treasury may conduct a thorough review of the department's office for civil rights to determine whether the office is complying with this section.

(2) The comptroller shall notify the chairs of the joint government operations committee upon the completion of any review conducted pursuant to this subsection (b), and upon such notification, the government operations joint subcommittee on education, health, and general welfare may hold a public

hearing to receive testimony from the comptroller and representatives of the department's office for civil rights.

(3) The comptroller shall submit a written report of the findings of any review conducted pursuant to this subsection (b) to the education committees of the senate and the house of representatives and to the chairs of the government operations joint subcommittee on education, health, and general welfare.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following as a new section:

(a)

(1) The board of trustees of the University of Tennessee, the board of regents, and the local governing board of trustees of each state university shall promulgate rules no later than September 1, 2021, to ensure that each public institution of higher education under the respective board's control is in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681).

(2) Rules promulgated pursuant to this subsection (a) must:

(A) Comply with the United States Code, the Code of Federal Regulations (CFR), and state law;

(B) Not include policy guidance issued by the United States department of education;

(C) Be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The board of trustees of the University of Tennessee, the board of regents, and the local governing board of trustees of each state university shall not implement any change to a rule promulgated pursuant to this subsection

(a) by proposed rules without public hearing or by adopting emergency rules after initial rules are adopted, unless:

(i) The rule is required by the constitution or a court order;

or

(ii) The rule is required by an agency of the federal government through a change in the Code of Federal Regulations (CFR), and adoption of the rule through nonemergency rulemaking procedures described in title 4, chapter 5, jeopardize the loss of a federal program or federal funds;

(D) Include:

(i) An accounting methodology to ensure compliance with § 4-4-123(b); and

(ii) Protections to avoid offenses under §§ 39-13-511 and 39-13-607.

(b)

(1) The comptroller of the treasury may conduct a thorough review of the board of trustees of the University of Tennessee, the board of regents, and the local governing board of trustees of each state university to determine whether each respective governing board is complying with this section.

(2) The comptroller shall notify the chairs of the joint government operations committee upon the completion of any review conducted pursuant to this subsection (b), and upon such notification, the government operations joint subcommittee on education, health, and general welfare may hold a public hearing to receive testimony from the comptroller and members of the governing board of the public institution of higher education that is the subject of the review.

(3) The comptroller shall submit a written report of the findings of any review conducted pursuant to this subsection (b) to the education committees of the senate and the house of representatives and to the chairs of the government operations joint subcommittee on education, health, and general welfare.

(c) As used in this section, "state university" means the following institutions:

- (1) Austin Peay State University;
- (2) East Tennessee State University;
- (3) Middle Tennessee State University;
- (4) Tennessee State University;
- (5) Tennessee Technological University; and
- (6) University of Memphis.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.