

EQUAL OPPORTUNITY INITIATIVES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill prohibits an institution of higher education, the public education system, and a governmental employer from taking certain actions and engaging in discriminatory practices.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an institution of higher education, the public education system, and a governmental employer from:
 - requiring an individual, before, during, or after admission or employment, to provide certain submissions or attend certain training that promotes differential treatment;
 - using an individual's certain characteristics in decisions regarding aspects of employment or education; and
 - engaging in certain practices;
- ▶ requires the Utah Board of Higher Education (board), the State Board of Education (state board), the state auditor, and executive agency directors to review and report compliance with certain requirements;
- ▶ prohibits an institution of higher education, the state board, and a governmental employer from establishing or maintaining an office that engages in certain practices;
- ▶ requires an institution of higher education to:

- 30 • contract with a third party to conduct campus climate surveys;
- 31 • provide certain training; and
- 32 • collect and send the surveys to the Office of Legislative Research and General
33 Counsel (OLRGC);
- 34 ▶ requires OLRGC to provide campus climate survey summaries to the Education
35 Interim Committee at certain times;
- 36 ▶ provides for certain measures of legislative oversight;
- 37 ▶ appropriates funding for a certain institution of higher education program;
- 38 ▶ provides that an individual may submit a complaint for noncompliance to:
39 • for an institution, the board; or
40 • for public education, the state board;
- 41 ▶ provides limited exceptions to the prohibitions in this bill; and
- 42 ▶ makes technical and conforming changes.

43 **Money Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 This bill provides a special effective date.

47 **Utah Code Sections Affected:**

48 AMENDS:

49 **53B-1-301**, as last amended by Laws of Utah 2023, Chapter 374

50 **53E-1-201**, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380

51 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

52 ENACTS:

53 **53B-1-116**, Utah Code Annotated 1953

54 **53B-1-117**, Utah Code Annotated 1953

55 **53B-1-118**, Utah Code Annotated 1953

56 **53E-3-1101**, Utah Code Annotated 1953

57 **53G-2-103**, Utah Code Annotated 1953

- 58 **53G-2-104**, Utah Code Annotated 1953
- 59 **53G-2-105**, Utah Code Annotated 1953
- 60 **67-27-105**, Utah Code Annotated 1953
- 61 **67-27-106**, Utah Code Annotated 1953
- 62 **67-27-107**, Utah Code Annotated 1953

64 *Be it enacted by the Legislature of the state of Utah:*

65 Section 1. Section **53B-1-116** is enacted to read:

66 **53B-1-116. Prohibition on the use of certain submissions in higher education --**

67 **Exceptions.**

68 (1) As used in this section, "prohibited submission" means the same as that term is
69 defined in Section 67-27-105.

70 (2) Except as provided in Subsections (4) and (6), an institution may not require,
71 request, solicit, or compel a prohibited submission as a certification or condition before taking
72 action with respect to:

73 (a) employment, including decisions regarding:

74 (i) hiring;

75 (ii) terms of employment;

76 (iii) benefits;

77 (iv) compensation;

78 (v) seniority status;

79 (vi) tenure or continuing status;

80 (vii) promotion;

81 (viii) performance reviews;

82 (ix) transfer;

83 (x) termination; or

84 (xi) appointment;

85 (b) admission to, advancement in, or graduation from an institution or an academic

86 program;

87 (c) participation in an institution-sponsored program; or

88 (d) qualification for or receipt of state financial aid or other state financial assistance.

89 (3) An institution may not grant any form of preferential consideration to an individual
90 who, with or without solicitation from the institution, provides a prohibited submission for
91 consideration for any action described in Subsection (2).

92 (4) If federal law requires an institution to accept or require a prohibited submission,
93 the institution:

94 (a) may accept the prohibited submission only to the extent required under federal law;
95 and

96 (b) shall limit consideration of the information contained in the prohibited submission
97 to the extent necessary to satisfy the requirement under federal law.

98 (5) For a required prohibited submission under Subsection (4), an institution shall:

99 (a) prepare a report to the institution's governing board detailing the circumstances
100 under which a prohibited submission is required; and

101 (b) publish the report described in Subsection (5)(a) on the institution's governing
102 board website in a conspicuous location.

103 (6) Nothing in this section limits or prohibits an institution's authority to establish
104 policies that:

105 (a) are necessary to comply with state or federal law, including laws relating to
106 prohibited discrimination or harassment;

107 (b) require disclosure of an employee's academic research, classroom teaching, or
108 coursework; or

109 (c) require an applicant for employment, tenure, or promotion to disclose or discuss the
110 applicant's:

111 (i) research;

112 (ii) teaching agenda;

113 (iii) artistic creations; or

114 (iv) pedagogical approaches or experiences with students of all learning abilities.
115 (7) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an
116 institution of higher education's compliance with this section as follows:
117 (i) for 2025, on each institution of higher education; and
118 (ii) for 2026, and every year after, on one-half of the degree granting institutions of
119 higher education and one-half of the technical colleges.
120 (b) If the board identifies a violation of this section, the board shall:
121 (i) on or before 30 days after the day on which the board identifies the violation, work
122 with the institution to create a remediation plan; and
123 (ii) provide the institution 180 days after the day of the creation of the remediation plan
124 to cure the violation.
125 (8) On or before November 1 of each year, the board shall prepare and submit a report
126 to the Higher Education Appropriations Subcommittee on:
127 (a) the review process and each institution's compliance determination; or
128 (b) if a violation is identified, the remediation plan and progress under Subsection
129 (7)(b).
130 (9) The Legislature may withhold future state appropriations to an institution that fails
131 to cure a violation of this section within the time provided under Subsection (7)(b).
132 (10) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
133 Administrative Rulemaking Act, to establish a procedure for accepting and processing an
134 individual's complaint against an institution for an alleged violation of this section.
135 Section 2. Section **53B-1-117** is enacted to read:
136 **53B-1-117. Prohibition on the use of certain training in higher education --**
137 **Exceptions.**
138 (1) As used in this section:
139 (a) "Prohibited training" means a mandatory instructional program and related
140 materials that an institution requires the institution's employees, prospective employees,
141 students, or prospective students, to attend that promote prohibited discriminatory practices as

142 that term is defined in Section 53B-1-118.

143 (b) "Prohibited training" includes an in-person or online seminar, discussion group,
144 workshop, other program, or related materials.

145 (2) An institution may not require prohibited training.

146 (3) An institution shall annually train the institution's faculty and staff on academic
147 freedom and freedom of speech in accordance with state or federal law.

148 (4) Nothing in this section limits or prohibits an institution's authority to establish
149 policies that are necessary to comply with state or federal law, including laws relating to
150 prohibited discrimination or harassment.

151 (5) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an
152 institution of higher education's compliance with this section as follows:

153 (i) for 2025, on each institution of higher education; and

154 (ii) for 2026, and every year after, on one-half of the institutions of higher education
155 and one-half of the technical colleges.

156 (b) If the board identifies a violation of this section, the board shall:

157 (i) on or before 30 days after the day on which the board identifies the violation, work
158 with the institution to create a remediation plan; and

159 (ii) provide the institution 180 days after the day of the creation of the remediation plan
160 to cure the violation.

161 (6) On or before November 1 of each year, the board shall prepare and submit a report
162 to the Higher Education Appropriations Subcommittee on:

163 (a) the review process and each institution's compliance determination; or

164 (b) if a violation is identified, the remediation plan and progress under Subsection
165 (5)(b).

166 (7) The Legislature may withhold future state appropriations to an institution that fails
167 to cure a violation of this section within the time provided under Subsection (5)(b).

168 (8) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
169 Administrative Rulemaking Act, to establish a procedure for accepting and processing an

170 individual's complaint against an institution for an alleged violation of this section.

171 Section 3. Section **53B-1-118** is enacted to read:

172 **53B-1-118. Prohibited discriminatory practices -- Restrictions -- Campus climate**
173 **survey -- Exceptions.**

174 (1) As used in this section:

175 (a) "Important government interest" means a governmental purpose relating to athletic
176 competition or athletic safety in public education or privacy.

177 (b) "Personal identity characteristics" means an individual's race, color, ethnicity, sex,
178 sexual orientation, national origin, religion, or gender identity.

179 (c) (i) "Prohibited discriminatory practice" means engaging in or maintaining a policy,
180 procedure, practice, program, office, initiative, or required training that, based on an
181 individual's personal identity characteristics:

182 (A) promotes the differential treatment of an individual without an important
183 government interest;

184 (B) influences the employment decisions of an individual other than through the use of
185 neutral hiring processes with regard to personal identity characteristics and in accordance with
186 federal law;

187 (C) influences an individual's admission to, advancement in, or graduation from an
188 institution, the public education system, or an academic program; or

189 (D) influences an individual's participation in an institution-sponsored or public
190 education system-sponsored program.

191 (ii) "Prohibited discriminatory practice" also means engaging in or maintaining a
192 policy, procedure, practice, program, office, initiative, or required training that:

193 (A) asserts that one personal identity characteristic is inherently superior or inferior to
194 another personal identity characteristic;

195 (B) asserts that an individual, by virtue of the individual's personal identity
196 characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim,
197 whether consciously or unconsciously;

198 (C) asserts that an individual should be discriminated against in violation of Title VI,
199 Title VII, and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment
200 because of the individual's personal identity characteristics;

201 (D) asserts that an individual's moral character is determined by the individual's
202 personal identity characteristics;

203 (E) asserts that an individual, by virtue of the individual's personal identity
204 characteristics, bears responsibility for actions committed in the past by other individuals with
205 the same personal identity characteristics;

206 (F) asserts that an individual should feel discomfort, guilt, anguish, or other
207 psychological distress solely because of the individual's personal identity characteristics;

208 (G) asserts that meritocracy is inherently racist or sexist;

209 (H) asserts that socio-political structures are inherently a series of power relationships
210 and struggles among racial groups;

211 (I) promotes resentment between, or resentment of, individuals by virtue of their
212 personal identity characteristics;

213 (J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual
214 because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or
215 gender identity;

216 (K) considers an individual's personal identity characteristics in determining receipt of
217 state financial aid or other state financial assistance, including a scholarship award or tuition
218 waiver; or

219 (L) is referred to or named diversity, equity, and inclusion.

220 (iii) "Prohibited discriminatory practice" does not include policies or procedures
221 required by state or federal law, including laws relating to prohibited discrimination or
222 harassment.

223 (d) "Student success and support" means an office, division, employment position, or
224 other unit of an institution established or maintained to provide support, guidance, and
225 resources that equip all students, including all students at higher risk of not completing a

226 certificate or degree, with experiences and opportunities for success in each student's academic
227 and career goals, and without excluding individuals on the basis of an individual's personal
228 identity characteristics.

229 (e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et
230 seq.

231 (f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et
232 seq.

233 (g) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
234 1681 et seq.

235 (2) An institution may not:

236 (a) engage in prohibited discriminatory practices;

237 (b) take, express, or assert a position or opinion on subjects described in Subsection
238 67-27-105(1)(b)(ii);

239 (c) establish or maintain an office, division, employment position, or other unit of an
240 institution established to implement, develop, plan, or promote campus policies, procedures,
241 practices, programs, or initiatives, regarding prohibited discriminatory practices; or

242 (d) employ or assign an employee or a third-party whose duties for an institution
243 include coordinating, creating, developing, designing, implementing, organizing, planning, or
244 promoting policies, programming, training, practices, activities, and procedures relating to
245 prohibited discriminatory practices.

246 (3) An institution shall:

247 (a) ensure that all students have access to programs providing student success and
248 support;

249 (b) publish the titles and syllabi of all mandatory courses, seminars, classes,
250 workshops, and training sessions on the institution's website in an online database readily
251 searchable by the public;

252 (c) annually train employees on the separation of personal political advocacy from an
253 institution's business and employment activities;

254 (d) develop strategies, including inviting speakers, to promote viewpoint diversity; and

255 (e) establish policies and procedures to include opportunities for education and
256 research on free speech and civic education.

257 (4) Beginning on or before July 1, 2025, the board shall report to the Higher Education
258 Appropriations Subcommittee on the status and allocation of appropriated funds for student
259 success and support.

260 (5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to
261 support an institution's student success and support program in accordance with this section.

262 (6) (a) On or before January 1, 2025, the board shall contract with a third-party
263 contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a
264 campus expression climate survey of each institution:

265 (i) to assess student, faculty, and staff perceptions of and experiences with an
266 institution's campus environment that measures the student's, faculty member's, and staff
267 member's perception of and experience with an institution's campus environment; and

268 (ii) that measures the student's, faculty member's, and staff member's perception of and
269 experience with campus policy and practice regarding freedom of speech and academic
270 freedom at the institution.

271 (b) The board shall collect the results of each campus expression climate survey under
272 Subsection (6) and submit the results to the Office of Legislative Research and General
273 Counsel beginning on or before July 1.

274 (7) (a) The Office of Legislative Research and General Counsel shall provide a
275 summary report on the data collected from the campus expression climate surveys to the
276 Education Interim Committee on or before:

277 (i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

278 (ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

279 (iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

280 (b) On or before November 1, 2035, the Office of Legislative Research and General
281 Counsel shall provide a comprehensive report of the campus expression climate surveys to the

282 Education Interim Committee.

283 (8) Nothing in this section requires an individual to respond to a campus expression
284 climate survey.

285 (9) Nothing in this section limits or prohibits an institution's authority to establish
286 policies that:

287 (a) are necessary to comply with state or federal law, including laws relating to
288 prohibited discrimination or harassment;

289 (b) require disclosure of an employee's academic research, classroom teaching, or
290 coursework; or

291 (c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

292 (i) research;

293 (ii) teaching agenda;

294 (iii) artistic creations; or

295 (iv) pedagogical approaches or experiences with students of all learning abilities.

296 (10) This section does not apply to:

297 (a) requirements necessary for athletic and accreditation compliance;

298 (b) academic research;

299 (c) academic course teaching in the classroom;

300 (d) a grant that would otherwise require:

301 (i) a department, office, division, or other unit of an institution to engage in a
302 prohibited discriminatory practice if the grant has been reviewed and approved by the
303 institution's board of trustees; or

304 (ii) an institution to engage in a prohibited discriminatory practice if the grant has been
305 reviewed and approved by the board;

306 (e) requirements necessary for an institution to establish or maintain eligibility for any
307 federal program; or

308 (f) private scholarships administered by an institution.

309 (11) Notwithstanding any other provision of this part, the University of Utah may take

310 any action required for the University of Utah to comply with the terms of an agreement
311 entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

312 (12) (a) Beginning on July 1, 2025, the board shall conduct a biennial review of an
313 institution of higher education's compliance with this section as follows:

314 (i) for 2025, on each institution of higher education; and

315 (ii) for 2026, and every year after, on one-half of the degree granting institutions of
316 higher education and one-half of the technical colleges.

317 (b) If the board identifies a violation of this section, the board shall:

318 (i) on or before 30 days after the day on which the board identifies the violation, work
319 with the institution to create a remediation plan; and

320 (ii) provide the institution 180 days after the day of the creation of the remediation plan
321 to cure the violation.

322 (13) On or before November 1 of each year, the board shall prepare and submit a report
323 to the Higher Education Appropriations Subcommittee on:

324 (a) the review process and each institution's compliance determination; or

325 (b) if a violation is identified, the remediation plan and progress under Subsection
326 (12)(b).

327 (14) On or before December 1 of each year, the Higher Education Appropriations
328 Subcommittee shall:

329 (a) report the findings under Subsections (4) and (13) to the Legislature; and

330 (b) make appropriation recommendations about an institution's compliance with this
331 section.

332 (15) The Legislature may withhold future state appropriations to an institution that fails
333 to cure a violation of this section within the time provided under Subsection (12)(b).

334 (16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
335 Administrative Rulemaking Act, to establish a procedure for accepting and processing an
336 individual's complaint against an institution for an alleged violation of this section.

337 Section 4. Section **53B-1-301** is amended to read:

338 **53B-1-301. Reports to and actions of the Higher Education Appropriations**
339 **Subcommittee.**

340 (1) In accordance with applicable provisions and Section 68-3-14, the following
341 recurring reports are due to the Higher Education Appropriations Subcommittee:

342 (a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

343 (b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the
344 Rocky Mountain Center for Occupational and Environmental Health;

345 ~~(b)~~ (c) the report described in Section 53B-7-101 by the board on recommended
346 appropriations for higher education institutions, including the report described in Section
347 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

348 ~~(c)~~ (d) the report described in Section 53B-7-704 by the Department of Workforce
349 Services and the Governor's Office of Economic Opportunity on targeted jobs;

350 ~~(d)~~ (e) the reports described in Section 53B-7-705 by the board on performance;

351 ~~(e)~~ (f) the report described in Section 53B-8-201 by the board on the Opportunity
352 Scholarship Program;

353 ~~(f)~~ (g) the report described in Section 53B-8d-104 by the Division of Child and
354 Family Services on tuition waivers for wards of the state;

355 ~~(g)~~ (h) the report described in Section 53B-13a-103 by the board on the Utah Promise
356 Program;

357 ~~(h)~~ (i) the report described in Section 53B-17-201 by the University of Utah
358 regarding the Miners' Hospital for Disabled Miners;

359 ~~(i)~~ (j) the report described in Section 53B-26-202 by the Medical Education Council
360 on projected demand for nursing professionals;

361 ~~(j)~~ (k) the report described in Section 53B-35-202 regarding the Higher Education
362 and Corrections Council; and

363 ~~(k)~~ (l) the report described in Section 53E-10-308 by the State Board of Education
364 and board on student participation in the concurrent enrollment program.

365 (2) In accordance with applicable provisions and Section 68-3-14, the following

366 occasional reports are due to the Higher Education Appropriations Subcommittee:

367 (a) upon request, the information described in Section 53B-8a-111 submitted by the
368 Utah Educational Savings Plan;

369 (b) a proposal described in Section 53B-26-202 by an eligible program to respond to
370 projected demand for nursing professionals; and

371 (c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board
372 on the fire and rescue training program described in Section 53B-29-202.

373 (3) In accordance with applicable provisions, the Higher Education Appropriations
374 Subcommittee shall complete the following:

375 (a) an appropriation recommendation described in Section 53B-1-118 regarding
376 compliance with Subsections 53B-1-118(5) and (14);

377 (b) as required by Section 53B-7-703, the review of performance funding described in
378 Section 53B-7-703;

379 [(b)] (c) an appropriation recommendation described in Section 53B-26-202 to fund a
380 proposal responding to projected demand for nursing professionals; and

381 [(c)] (d) review of the report described in Section 63B-10-301 by the University of
382 Utah on the status of a bond and bond payments specified in Section 63B-10-301.

383 Section 5. Section 53E-1-201 is amended to read:

384 **53E-1-201. Reports to and action required of the Education Interim Committee.**

385 (1) In accordance with applicable provisions and Section 68-3-14, the following
386 recurring reports are due to the Education Interim Committee:

387 (a) the report described in Section 9-22-109 by the STEM Action Center Board,
388 including the information described in Section 9-22-113 on the status of the computer science
389 initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

390 (b) the prioritized list of data research described in Section 53B-33-302 and the report
391 on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

392 (c) the report described in Section 35A-15-303 by the State Board of Education on
393 preschool programs;

- 394 (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education
- 395 on career and technical education issues and addressing workforce needs;
- 396 (e) the annual report of the Utah Board of Higher Education described in Section
- 397 53B-1-402;
- 398 (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education
- 399 regarding activities related to campus safety;
- 400 (g) the State Superintendent's Annual Report by the state board described in Section
- 401 53E-1-203;
- 402 (h) the annual report described in Section 53E-2-202 by the state board on the strategic
- 403 plan to improve student outcomes;
- 404 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
- 405 the Deaf and the Blind;
- 406 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
- 407 Actionable, and Dynamic Education director on research and other activities;
- 408 (k) the report described in Section 53F-2-522 regarding mental health screening
- 409 programs;
- 410 (l) the report described in Section 53F-4-203 by the state board and the independent
- 411 evaluator on an evaluation of early interactive reading software;
- 412 (m) the report described in Section 63N-20-107 by the Governor's Office of Economic
- 413 Opportunity on UPSTART;
- 414 (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
- 415 related to grants for professional learning and grants for an elementary teacher preparation
- 416 assessment;
- 417 (o) upon request, the report described in Section 53F-5-219 by the state board on the
- 418 Local Innovations Civics Education Pilot Program;
- 419 (p) the report described in Section 53F-5-405 by the State Board of Education
- 420 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
- 421 for students who are low income;

422 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and
423 Corrections Council;

424 (r) the report described in Section [53G-7-221](#) by the State Board of Education
425 regarding innovation plans;

426 (s) the annual report described in Section [63A-2-502](#) by the Educational Interpretation
427 and Translation Service Procurement Advisory Council; and

428 (t) the reports described in Section [53F-6-412](#) regarding the Utah Fits All Scholarship
429 Program.

430 (2) In accordance with applicable provisions and Section [68-3-14](#), the following
431 occasional reports are due to the Education Interim Committee:

432 (a) the report described in Section [35A-15-303](#) by the School Readiness Board by
433 November 30, 2020, on benchmarks for certain preschool programs;

434 (b) in 2027, 2030, 2033, and 2035, the reports described in Sections [53B-1-116](#),
435 [53B-1-117](#), and [53B-1-118](#);

436 [~~(b)~~] (c) the report described in Section [53B-28-402](#) by the Utah Board of Higher
437 Education on or before the Education Interim Committee's November 2021 meeting;

438 [~~(c)~~] (d) if required, the report described in Section [53E-4-309](#) by the state board
439 explaining the reasons for changing the grade level specification for the administration of
440 specific assessments;

441 [~~(d)~~] (e) if required, the report described in Section [53E-5-210](#) by the state board of an
442 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

443 [~~(e)~~] (f) in 2022 and in 2023, on or before November 30, the report described in
444 Subsection [53E-10-309\(5\)](#) related to the PRIME pilot program;

445 [~~(f)~~] (g) the report described in Section [53E-10-702](#) by Utah Leading through Effective,
446 Actionable, and Dynamic Education;

447 [~~(g)~~] (h) if required, the report described in Section [53F-2-513](#) by the state board
448 evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in
449 high poverty schools;

450 ~~[(h)]~~ (i) the report described in Section [53F-5-210](#) by the state board on the Educational
451 Improvement Opportunities Outside of the Regular School Day Grant Program;

452 ~~[(i)]~~ (j) upon request, a report described in Section [53G-7-222](#) by an LEA regarding
453 expenditure of a percentage of state restricted funds to support an innovative education
454 program;

455 ~~[(j)]~~ (k) the report described in Section [53G-7-503](#) by the state board regarding fees
456 that LEAs charge during the 2020-2021 school year;

457 ~~[(k)]~~ (l) the reports described in Section [53G-11-304](#) by the state board regarding
458 proposed rules and results related to educator exit surveys; and

459 ~~[(l)]~~ (m) the report described in Section [26B-5-113](#) by the Office of Substance Use and
460 Mental Health, the State Board of Education, and the Department of Health and Human
461 Service regarding recommendations related to Medicaid reimbursement for school-based health
462 services.

463 Section 6. Section [53E-3-1101](#) is enacted to read:

464 **53E-3-1101. Prohibited discriminatory practices -- Restrictions -- Reporting.**

465 (1) As used in this section, "prohibited discriminatory practice" means the same as that
466 term is defined in Section [53B-1-118](#).

467 (2) The state board may not:

468 (a) establish or maintain an office, division, or employment position established to
469 implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives,
470 regarding prohibited discriminatory practices; or

471 (b) employ or assign an employee or a third-party whose duties for the state board
472 include coordinating, creating, developing, designing, implementing, organizing, planning, or
473 promoting policies, programming, training, practices, activities, and procedures relating to
474 prohibited discriminatory practices.

475 (3) Nothing in this section limits or prohibits the state board's authority to establish
476 policies that are necessary to comply with state or federal law, including laws relating to
477 prohibited discrimination or harassment.

478 (4) The state board shall provide an update to the Education Interim Committee and
479 Public Education Appropriations Subcommittee on the state board's compliance with this
480 section at or before:

- 481 (a) the Education Interim Committee's November interim committee meeting; and
- 482 (b) the Public Education Appropriations Subcommittee December interim
483 subcommittee meeting.

484 Section 7. Section **53G-2-103** is enacted to read:

485 **53G-2-103. Prohibition on the use of certain submissions in public education --**

486 **Exceptions.**

487 (1) As used in this section, "prohibited submission" means the same as that term is
488 defined in Section [67-27-105](#).

489 (2) Except as provided in Subsections (4) and (6), an LEA may not require, request,
490 solicit, or compel a prohibited submission as a certification or condition before taking action
491 with respect to:

492 (a) employment, including decisions regarding:

493 (i) hiring;

494 (ii) terms of employment;

495 (iii) benefits;

496 (iv) compensation;

497 (v) seniority status;

498 (vi) tenure or continuing status;

499 (vii) promotion;

500 (viii) performance reviews;

501 (ix) transfer;

502 (x) termination; or

503 (xi) appointment;

504 (b) enrollment or graduation from the LEA;

505 (c) participation in LEA-sponsored programs; or

506 (d) qualification for or receipt of state financial aid or other state financial assistance.

507 (3) An LEA may not grant any form of preferential consideration to an individual who,
508 with or without solicitation from the LEA, provides a prohibited submission for consideration
509 for any action described in Subsection (2).

510 (4) If federal law requires an LEA to accept or require a prohibited submission, the
511 LEA:

512 (a) may accept the prohibited submission only to the extent required under federal law;
513 and

514 (b) shall limit consideration of the information contained in the prohibited submission
515 to the extent necessary to satisfy the requirement under federal law.

516 (5) For a required prohibited submission under Subsection (4), an LEA shall notify the
517 state board detailing the circumstances under which a prohibited submission under Subsection
518 (4) is required.

519 (6) Nothing in this section limits or prohibits an LEA's authority to establish policies
520 that:

521 (a) are necessary to comply with state or federal law, including laws relating to
522 prohibited discrimination or harassment; or

523 (b) require an applicant for employment, tenure, continuing status, or promotion to
524 disclose or discuss the applicant's:

525 (i) teaching record;

526 (ii) artistic creations; or

527 (iii) pedagogical approaches or experiences with students of all learning abilities.

528 (7) If the state board identifies a reported violation of this section, the state board shall
529 provide an update to the Education Interim Committee on an LEA's compliance with this
530 section at or before the Education Interim Committee's November interim committee meeting.

531 (8) An individual may bring a violation of this section to the state board in accordance
532 with the process described in Section [53E-3-401](#).

533 Section 8. Section **53G-2-104** is enacted to read:

534 **53G-2-104. Prohibition on the use of certain training in public education --**

535 **Exceptions.**

536 (1) As used in this section:

537 (a) "Prohibited training" means a mandatory instructional program and related
538 materials that an LEA requires the LEA's employees, prospective employees, students, or
539 prospective students, to attend that promote prohibited discriminatory practices as that term is
540 defined in Section [53B-1-118](#).

541 (b) "Prohibited training" includes an in-person or online seminar, discussion group,
542 workshop, other program, or related materials.

543 (2) An LEA may not require prohibited training.

544 (3) Nothing in this section limits or prohibits an LEA's authority to establish policies
545 that are necessary to comply with state or federal law, including laws relating to prohibited
546 discrimination or harassment.

547 (4) If the state board identifies a reported violation of this section, the state board shall
548 provide an update to the Education Interim Committee on an LEA's compliance with this
549 section at or before the Education Interim Committee's November interim committee meeting.

550 (5) An individual may bring a violation of this section to the state board in accordance
551 with the process described in Section [53E-3-401](#).

552 Section 9. Section **53G-2-105** is enacted to read:

553 **53G-2-105. Prohibited discriminatory practices -- Restrictions -- Reporting.**

554 (1) As used in this section, "prohibited discriminatory practice" means the same as that
555 term is defined in Section [53B-1-118](#).

556 (2) An LEA may not:

557 (a) engage in prohibited discriminatory practices;

558 (b) establish or maintain an office, division, employment position, or other unit of an
559 institution established to implement, develop, plan, or promote campus policies, procedures,
560 practices, programs, or initiatives, regarding prohibited discriminatory practices; or

561 (c) employ or assign an employee or a third-party whose duties for an institution

562 include coordinating, creating, developing, designing, implementing, organizing, planning, or
563 promoting policies, programming, training, practices, activities, and procedures relating to
564 prohibited discriminatory practices.

565 (3) An LEA shall ensure that all students have access to programs providing student
566 success and support, as that term is defined in Section [53B-1-118](#).

567 (4) Nothing in this section limits or prohibits an LEA's authority to establish policies
568 that are necessary to comply with state or federal law, including laws relating to prohibited
569 discrimination or harassment.

570 (5) If the state board identifies a reported violation of this section, the state board shall
571 provide an update to the Education Interim Committee and the Public Education
572 Appropriations Subcommittee on an LEA's compliance with this section at or before the
573 Education Interim Committee's November interim committee meeting.

574 (6) An individual may bring a violation of this section to the state board in accordance
575 with the process described in Section [53E-3-401](#).

576 Section 10. Section **67-3-1** is amended to read:

577 **67-3-1. Functions and duties.**

578 (1) (a) The state auditor is the auditor of public accounts and is independent of any
579 executive or administrative officers of the state.

580 (b) The state auditor is not limited in the selection of personnel or in the determination
581 of the reasonable and necessary expenses of the state auditor's office.

582 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
583 financial statements showing:

584 (a) the condition of the state's finances;

585 (b) the revenues received or accrued;

586 (c) expenditures paid or accrued;

587 (d) the amount of unexpended or unencumbered balances of the appropriations to the
588 agencies, departments, divisions, commissions, and institutions; and

589 (e) the cash balances of the funds in the custody of the state treasurer.

590 (3) (a) The state auditor shall:

591 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
592 any department of state government or any independent agency or public corporation as the law
593 requires, as the auditor determines is necessary, or upon request of the governor or the
594 Legislature;

595 (ii) perform the audits in accordance with generally accepted auditing standards and
596 other auditing procedures as promulgated by recognized authoritative bodies; and

597 (iii) as the auditor determines is necessary, conduct the audits to determine:

598 (A) honesty and integrity in fiscal affairs;

599 (B) accuracy and reliability of financial statements;

600 (C) effectiveness and adequacy of financial controls; and

601 (D) compliance with the law.

602 (b) If any state entity receives federal funding, the state auditor shall ensure that the
603 audit is performed in accordance with federal audit requirements.

604 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
605 appropriation to the state auditor from the General Fund.

606 (ii) If an appropriation is not provided, or if the federal government does not
607 specifically provide for payment of audit costs, the costs of the federal compliance portions of
608 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
609 bears to the total federal funds received by the state.

610 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
611 funds passed through the state to local governments and to reflect any reduction in audit time
612 obtained through the use of internal auditors working under the direction of the state auditor.

613 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
614 financial audits, and as the auditor determines is necessary, conduct performance and special
615 purpose audits, examinations, and reviews of any entity that receives public funds, including a
616 determination of any or all of the following:

617 (i) the honesty and integrity of all the entity's fiscal affairs;

618 (ii) whether the entity's administrators have faithfully complied with legislative intent;

619 (iii) whether the entity's operations have been conducted in an efficient, effective, and
620 cost-efficient manner;

621 (iv) whether the entity's programs have been effective in accomplishing the intended
622 objectives; and

623 (v) whether the entity's management, control, and information systems are adequate,
624 effective, and secure.

625 (b) The auditor may not conduct performance and special purpose audits,
626 examinations, and reviews of any entity that receives public funds if the entity:

627 (i) has an elected auditor; and

628 (ii) has, within the entity's last budget year, had the entity's financial statements or
629 performance formally reviewed by another outside auditor.

630 (5) The state auditor:

631 (a) shall administer any oath or affirmation necessary to the performance of the duties
632 of the auditor's office; and

633 (b) may:

634 (i) subpoena witnesses and documents, whether electronic or otherwise; and

635 (ii) examine into any matter that the auditor considers necessary.

636 (6) The state auditor may require all persons who have had the disposition or
637 management of any property of this state or its political subdivisions to submit statements
638 regarding the property at the time and in the form that the auditor requires.

639 (7) The state auditor shall:

640 (a) except where otherwise provided by law, institute suits in Salt Lake County in
641 relation to the assessment, collection, and payment of revenues against:

642 (i) persons who by any means have become entrusted with public money or property
643 and have failed to pay over or deliver the money or property; and

644 (ii) all debtors of the state;

645 (b) collect and pay into the state treasury all fees received by the state auditor;

646 (c) perform the duties of a member of all boards of which the state auditor is a member
647 by the constitution or laws of the state, and any other duties that are prescribed by the
648 constitution and by law;

649 (d) stop the payment of the salary of any state official or state employee who:

650 (i) refuses to settle accounts or provide required statements about the custody and
651 disposition of public funds or other state property;

652 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
653 board or department head with respect to the manner of keeping prescribed accounts or funds;
654 or

655 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
656 official's or employee's attention;

657 (e) establish accounting systems, methods, and forms for public accounts in all taxing
658 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

659 (f) superintend the contractual auditing of all state accounts;

660 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
661 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
662 officials and employees in those taxing units comply with state laws and procedures in the
663 budgeting, expenditures, and financial reporting of public funds;

664 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
665 if necessary, to ensure that officials and employees in the county comply with Section
666 [59-2-303.1](#); and

667 (i) withhold state allocated funds or the disbursement of property taxes from a local
668 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
669 the state auditor finds the withholding necessary to ensure that the entity registers and
670 maintains the entity's registration with the lieutenant governor, in accordance with Section
671 [67-1a-15](#).

672 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
673 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal

674 written notice of noncompliance from the auditor and has been given 60 days to make the
675 specified corrections.

676 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
677 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
678 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
679 state auditor:

680 (i) shall provide a recommended timeline for corrective actions;

681 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
682 state; and

683 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
684 account of a financial institution by filing an action in district court requesting an order of the
685 court to prohibit a financial institution from providing the fee-assessing unit access to an
686 account.

687 (c) The state auditor shall remove a limitation on accessing funds under Subsection
688 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
689 financial reporting of public funds.

690 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
691 state law, the state auditor:

692 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
693 comply;

694 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
695 state; and

696 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
697 account of a financial institution by:

698 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
699 the institution prohibit access to the account; or

700 (B) filing an action in district court requesting an order of the court to prohibit a
701 financial institution from providing the taxing or fee-assessing unit access to an account.

702 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
703 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
704 (8)(d).

705 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
706 received formal written notice of noncompliance from the auditor and has been given 60 days
707 to make the specified corrections.

708 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
709 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

710 (b) If the state auditor receives a notice of non-registration, the state auditor may
711 prohibit the local government entity or limited purpose entity, as those terms are defined in
712 Section 67-1a-15, from accessing:

713 (i) money held by the state; and

714 (ii) money held in an account of a financial institution by:

715 (A) contacting the entity's financial institution and requesting that the institution
716 prohibit access to the account; or

717 (B) filing an action in district court requesting an order of the court to prohibit a
718 financial institution from providing the entity access to an account.

719 (c) The state auditor shall remove the prohibition on accessing funds described in
720 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
721 Section 67-1a-15, from the lieutenant governor.

722 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
723 state auditor:

724 (a) shall authorize a disbursement by a local government entity or limited purpose
725 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
726 unit if the disbursement is necessary to:

727 (i) avoid a major disruption in the operations of the local government entity, limited
728 purpose entity, or state or local taxing or fee-assessing unit; or

729 (ii) meet debt service obligations; and

730 (b) may authorize a disbursement by a local government entity, limited purpose entity,
731 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

732 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
733 take temporary custody of public funds if an action is necessary to protect public funds from
734 being improperly diverted from their intended public purpose.

735 (b) If the state auditor seeks relief under Subsection (12)(a):

736 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
737 and

738 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
739 court orders the public funds to be protected from improper diversion from their public
740 purpose.

741 (13) The state auditor shall:

742 (a) establish audit guidelines and procedures for audits of local mental health and
743 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
744 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
745 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
746 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
747 Organizations, and Other Local Entities Act; and

748 (b) ensure that those guidelines and procedures provide assurances to the state that:

749 (i) state and federal funds appropriated to local mental health authorities are used for
750 mental health purposes;

751 (ii) a private provider under an annual or otherwise ongoing contract to provide
752 comprehensive mental health programs or services for a local mental health authority is in
753 compliance with state and local contract requirements and state and federal law;

754 (iii) state and federal funds appropriated to local substance abuse authorities are used
755 for substance abuse programs and services; and

756 (iv) a private provider under an annual or otherwise ongoing contract to provide
757 comprehensive substance abuse programs or services for a local substance abuse authority is in

758 compliance with state and local contract requirements, and state and federal law.

759 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
760 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
761 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
762 investigations of any political subdivision that are necessary to determine honesty and integrity
763 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
764 financial controls and compliance with the law.

765 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
766 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
767 initiate an audit or investigation of the public entity subject to the notice to determine
768 compliance with Section 11-41-103.

769 (15) (a) The state auditor may not audit work that the state auditor performed before
770 becoming state auditor.

771 (b) If the state auditor has previously been a responsible official in state government
772 whose work has not yet been audited, the Legislature shall:

- 773 (i) designate how that work shall be audited; and
- 774 (ii) provide additional funding for those audits, if necessary.

775 (16) The state auditor shall:

776 (a) with the assistance, advice, and recommendations of an advisory committee
777 appointed by the state auditor from among special district boards of trustees, officers, and
778 employees and special service district boards, officers, and employees:

779 (i) prepare a Uniform Accounting Manual for Special Districts that:

780 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
781 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
782 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
783 District Act;

784 (B) conforms with generally accepted accounting principles; and

785 (C) prescribes reasonable exceptions and modifications for smaller districts to the

786 uniform system of accounting, budgeting, and reporting;

787 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
788 reflect generally accepted accounting principles;

789 (iii) conduct a continuing review and modification of procedures in order to improve
790 them;

791 (iv) prepare and supply each district with suitable budget and reporting forms; and

792 (v) (A) prepare instructional materials, conduct training programs, and render other
793 services considered necessary to assist special districts and special service districts in
794 implementing the uniform accounting, budgeting, and reporting procedures; and

795 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
796 63G, Chapter 22, State Training and Certification Requirements; and

797 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
798 and experiences of specific special districts and special service districts selected by the state
799 auditor and make the information available to all districts.

800 (17) (a) The following records in the custody or control of the state auditor are
801 protected records under Title 63G, Chapter 2, Government Records Access and Management
802 Act:

803 (i) records that would disclose information relating to allegations of personal
804 misconduct, gross mismanagement, or illegal activity of a past or present governmental
805 employee if the information or allegation cannot be corroborated by the state auditor through
806 other documents or evidence, and the records relating to the allegation are not relied upon by
807 the state auditor in preparing a final audit report;

808 (ii) records and audit workpapers to the extent the workpapers would disclose the
809 identity of an individual who during the course of an audit, communicated the existence of any
810 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
811 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
812 any recognized entity of the United States, if the information was disclosed on the condition
813 that the identity of the individual be protected;

814 (iii) before an audit is completed and the final audit report is released, records or drafts
815 circulated to an individual who is not an employee or head of a governmental entity for the
816 individual's response or information;

817 (iv) records that would disclose an outline or part of any audit survey plans or audit
818 program; and

819 (v) requests for audits, if disclosure would risk circumvention of an audit.

820 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
821 of records or information that relate to a violation of the law by a governmental entity or
822 employee to a government prosecutor or peace officer.

823 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
824 the state auditor to classify a document as public, private, controlled, or protected under Title
825 63G, Chapter 2, Government Records Access and Management Act.

826 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
827 state auditor and the subject of an audit performed by the state auditor as to whether the state
828 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
829 auditor gained access to in the course of the state auditor's audit but which the subject of the
830 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
831 Access and Management Act.

832 (ii) The state auditor may submit a record dispute to the State Records Committee,
833 created in Section 63G-2-501, for a determination of whether the state auditor may, in
834 conjunction with the state auditor's release of an audit report, release to the public the record
835 that is the subject of the record dispute.

836 (iii) The state auditor or the subject of the audit may seek judicial review of a State
837 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
838 63G-2-404.

839 (18) If the state auditor conducts an audit of an entity that the state auditor has
840 previously audited and finds that the entity has not implemented a recommendation made by
841 the state auditor in a previous audit, the state auditor shall notify the Legislative Management

842 Committee through the Legislative Management Committee's audit subcommittee that the
843 entity has not implemented that recommendation.

844 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
845 privacy officer described in Section [67-3-13](#).

846 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
847 another government entity reports, on the financial, operational, and performance metrics for
848 the state system of higher education and the state system of public education, including metrics
849 in relation to students, programs, and schools within those systems.

850 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
851 of:

852 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship
853 Program, created in Section [53E-7-402](#);

854 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
855 Section [53F-4-302](#); and

856 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
857 created in Section [53F-6-402](#).

858 (b) Nothing in this subsection limits or impairs the authority of the State Board of
859 Education to administer the programs described in Subsection (21)(a).

860 (22) The state auditor shall, based on the information posted by the Office of
861 Legislative Research and General Counsel under Subsection [36-12-12.1\(2\)](#), for each policy,
862 track and post the following information on the state auditor's website:

863 (a) the information posted under Subsections [36-12-12.1\(2\)\(a\)](#) through (e);

864 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
865 adopted;

866 (c) an indication regarding whether the policy complies with the requirements
867 established by law for the policy; and

868 (d) a link to the policy.

869 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine

870 whether a government entity, government official, or government employee has complied with
871 a legal obligation directly imposed, by statute, on the government entity, government official,
872 or government employee.

873 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
874 the inquiry requested.

875 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
876 auditor shall post the results of the inquiry on the state auditor's website.

877 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
878 determination, without conducting an audit, regarding whether the obligation was fulfilled.

879 (24) The state auditor shall report compliance with Sections 67-27-105, 67-27-106, and
880 67-27-107 by:

881 (a) establishing a process to receive and audit each alleged violation; and

882 (b) reporting to the Legislative Management Committee, upon request, regarding the
883 state auditor's findings and recommendations under this Subsection (24).

884 Section 11. Section 67-27-105 is enacted to read:

885 **67-27-105. Prohibition on the use of certain submissions by governmental**
886 **employers -- Exceptions.**

887 (1) As used in this section:

888 (a) (i) "Governmental employer" means any department, division, agency, commission,
889 board, council, committee, authority, municipality, county, political subdivision, or any other
890 institution of the state.

891 (ii) "Governmental employer" does not mean a local education agency or institution of
892 higher education.

893 (b) (i) "Prohibited submission" means a submission, statement, or document that
894 requires an individual to articulate the individual's position, view, contribution, effort, or
895 experience regarding a policy, program, or initiative that promotes differential treatment based
896 on an individual's personal identity characteristics, as that term is defined in Section
897 53B-1-118.

898 (ii) "Prohibited submission" includes a submission, statement, or document that relates
899 to a policy, program, or initiative regarding:

900 (A) anti-racism;

901 (B) bias;

902 (C) critical race theory;

903 (D) implicit bias;

904 (E) intersectionality;

905 (F) prohibited discriminatory practice, as that term is defined in Section [53B-1-118](#); or

906 (G) racial privilege.

907 (iii) "Prohibited submission" does not include a submission, statement, or document
908 for an employment position if the submission, statement, or document relates to a bona fide
909 occupational qualification for the position.

910 (2) Except as provided in Subsection (4), a governmental employer may not require,
911 request, solicit, or compel a prohibited submission as a certification or condition before taking
912 action with respect to:

913 (a) employment, including decisions regarding:

914 (i) hiring;

915 (ii) terms of employment;

916 (iii) benefits;

917 (iv) compensation;

918 (v) seniority status;

919 (vi) tenure or continuing status;

920 (vii) promotion;

921 (viii) performance reviews;

922 (ix) transfer;

923 (x) termination; or

924 (xi) appointment; or

925 (b) admissions and aid, including:

- 926 (i) admission to any state program or course;
- 927 (ii) financial or other forms of state-administered aid or assistance; or
- 928 (iii) other benefits from the governmental employer for which an individual is eligible.

929 (3) A governmental employer may not grant any form of preferential consideration to
930 an individual who, with or without solicitation from the governmental employer, provides a
931 prohibited submission for any action described in Subsection (2).

932 (4) If federal law requires a governmental employer to accept or require a prohibited
933 submission, the governmental employer:

934 (a) may accept the prohibited submission only to the extent required under federal law;
935 and

936 (b) shall limit consideration of the information contained in the prohibited submission
937 to the extent necessary to satisfy the requirement under federal law.

938 (5) Nothing in this section limits or prohibits a governmental employer's authority to
939 establish policies that are necessary to comply with state or federal law, including laws relating
940 to prohibited discrimination or harassment.

941 Section 12. Section **67-27-106** is enacted to read:

942 **67-27-106. Prohibition on the use of certain training by governmental employers**
943 **-- Exceptions.**

944 (1) As used in this section:

945 (a) "Governmental employer" means the same as that term is defined in Section
946 [67-27-105](#).

947 (b) (i) "Prohibited training" means a mandatory instructional program and related
948 materials that a governmental employer requires the governmental employer's current or
949 prospective employees to attend that promote prohibited discriminatory practices as that term is
950 defined in Section [53B-1-118](#).

951 (ii) "Prohibited training" includes an in-person or online seminar, discussion group,
952 workshop, other program, or related materials.

953 (2) A governmental employer may not require prohibited training.

954 (3) Nothing in this section limits or prohibits a governmental employer's authority to
955 establish policies that are necessary to comply with state or federal law, including laws relating
956 to prohibited discrimination or harassment.

957 Section 13. Section **67-27-107** is enacted to read:

958 **67-27-107. Prohibited discriminatory practices -- Restrictions -- Reporting.**

959 (1) As used in this section:

960 (a) "Executive agency director" means the executive agency director of an executive
961 department agency who, at the direction of the governor, carries out state business.

962 (b) "Governmental employer" means the same as that term is defined in Section
963 [67-27-105](#).

964 (c) "Personal identity characteristics" means the same as that term is defined in Section
965 [53B-1-118](#).

966 (d) "Prohibited discriminatory practice" means the same as that term is defined in
967 Section [53B-1-118](#).

968 (2) (a) This section does not apply to a federal grant or program that would otherwise
969 require a governmental employer to engage in a prohibited discriminatory practice if the grant
970 or program has been reviewed and approved by the governmental employer's executive
971 director, legislative body, or governing body, as that term is defined in Section [10-1-104](#).

972 (b) A governmental employer's executive director, legislative body, or governing body
973 shall report the reviewed and approved federal grant or program under Subsection (2)(a) to the
974 Executive Appropriations Committee.

975 (3) A governmental employer may not engage in prohibited discriminatory practices.

976 (4) Nothing in this section limits or prohibits a governmental employer from:

977 (a) as required or permitted by state law:

978 (i) establishing or maintaining an office, division, or employment position to
979 implement, develop, plan, or promote practices relating to personal identity characteristics if
980 the office, division, or employment position is not engaging in prohibited discriminatory
981 practices; or

982 (ii) employing or assigning an employee or a third-party whose duties for governmental
983 employer include coordinating, creating, developing, designing, implementing, organizing,
984 planning, or promoting policies, programming, training, practices, activities, and procedures
985 relating to personal identity characteristics if the employee or the third-party is not engaging in
986 prohibited discriminatory practices;

987 (b) establishing policies that are necessary to comply with state or federal law,
988 including laws relating to prohibited discrimination or harassment; or

989 (c) establishing policies that are necessary to comply with state law enacted on or
990 before July 1, 2024.

991 (5) (a) Beginning on July 1, 2024, each executive agency director shall conduct a
992 thorough review of existing agency programs and offices to determine if the program or office
993 is in compliance with Subsection (3).

994 (b) On or before August 1, 2025, each executive agency director shall report on the
995 compliance of agency programs and offices under Subsection (5)(a) to the governor.

996 (c) The governor shall provide the reports under Subsection (5)(b) to:

997 (i) the Government Operations Interim Committee at or before the November 2025,
998 interim committee meeting; and

999 (ii) the Legislative Management Committee upon request.

1000 Section 14. **Effective date.**

1001 This bill takes effect on July 1, 2024.