

1 **(1) The Fourteenth Amendment of the Constitution of the United States**
2 **of America provides in part "nor shall any State ... deny to any person within**
3 **its jurisdiction the equal protection of the laws".**

4 **(2) The United States Supreme Court has opined that the "Equal**
5 **Protection Clause represents a 'foundation[al] principle'—'the absolute equality**
6 **of all citizens of the United States politically and civilly before their own laws**
7 **... The Constitution ... 'should not permit any distinctions of law based on race**
8 **or color' because any 'law which operates upon one man [should] operate**
9 **equally upon all,' and the Fourteenth Amendment would hold 'over every**
10 **American citizen, without regard to color, the protecting shield of law.'" (see**
11 **Students for Fair Admissions, Inc. v. President and Fellows of Harvard College,**
12 **600 U.S. 181, 2023).**

13 **(3) The United States Supreme Court further held that "(e)liminating**
14 **racial discrimination means eliminating all of it. And the Equal Protection**
15 **Clause, we have accordingly held, applies 'without regard to any differences of**
16 **race, of color, or of nationality'—it is 'universal in [its] application.' (Yick Wo,**
17 **118 U. S., at 369). For '[t]he guarantee of equal protection cannot mean one**
18 **thing when applied to one individual and something else when applied to a**
19 **person of another color.' (Regents of Univ. of Cal. v. Bakke, 438 U.S. 265,**
20 **289–290 (1978) (opinion of Powell, J.). 'If both are not accorded the same**
21 **protection, then it is not equal.' Id., at 290." (see Students for Fair Admissions,**
22 **Inc. v. President and Fellows of Harvard College, 600 U.S. 181, 2023).**

23 **§3399.42. Definitions**

24 **As used in this Part, the following terms have the following meanings**
25 **unless the context clearly indicates otherwise:**

26 **(1) "Employee" means any professor, faculty member, or other person**
27 **employed by an institution of higher education.**

28 **(2) "Ideological statement" means any written or oral statement**
29 **discussing any of the following:**

1 (a) The student or employee's race, color, ethnicity, national origin, sex,
2 or any subcategory thereof.

3 (b) The student or employee's views on, experience with diversity, equity,
4 and inclusion, as well as experience with social justice, confessing one's
5 race-based privilege, confessing one's sex-based privilege, partisan politics, or
6 religion.

7 (c) The student or individual's views on or experience with the race,
8 color, ethnicity, national origin, sex, or any subcategory thereof of students and
9 coworkers.

10 (d) The views regarding any theory that advocates for the differential
11 treatment of any individual or groups of individuals based on race, color,
12 ethnicity, national origin, sex, or any subcategory thereof.

13 (3) "Institution of higher education" means public postsecondary
14 education institution or a private postsecondary education institution that
15 receives state taxpayer funds.

16 (4) "Student" means any person who is an applicant or is enrolled on a
17 full-time or part-time basis at an institution of higher education in this state.

18 (5)(a) "Unlawful classification" means any program, activity, initiative,
19 event, instruction, class assignment, training, activity, or policy that classifies
20 or groups individuals on the basis of race, color, ethnicity, national origin, sex,
21 or any subcategory thereof for the purpose of promoting a certain group as
22 inherently superior or deserving of preferential treatment on the basis of such
23 classification.

24 (b) "Unlawful classification" includes the program named or labeled as
25 "diversity, equity, and inclusion" or any other name or label given to such
26 unlawful classification that is initiated for the purpose of unlawfully classifying
27 groups of individuals as inherently superior or deserving of preferential
28 treatment on the basis of such classification.

29 (6) "Unlawful discrimination" is any unlawful classification that results

1 in an individual being deemed inherently inferior or being denied educational
2 opportunities or employment opportunities because of the individual's race,
3 color, ethnicity, national origin, sex, or any subcategory thereof.

4 (7) "Self-generated fees" mean those fees that are paid by a student
5 along with tuition when the student enrolls for a semester or course of study.
6 §3399.43. Prohibition against unlawful classification and discrimination; equal
7 protection.

8 A.(1) Each institution of higher education shall ensure that each student
9 and faculty member is guaranteed equal protection under the law, pursuant to
10 Article I, Section 3 of the Constitution of Louisiana, and the right to be free
11 from discrimination pursuant to Article I, Section 12 of the Constitution of
12 Louisiana.

13 (2) An institution of higher education shall not engage in the unlawful
14 classification or a grouping of individuals together based upon race, color,
15 ethnicity, national origin, sex, or any subcategory thereof for the purpose of
16 conferring preferential treatment based upon the individual's classification or
17 group.

18 B. Unlawful discrimination is strictly prohibited in the recruitment or
19 admission of students or in the recruitment or employment of employees. An
20 institution of higher education shall not engage in any act of unlawful
21 discrimination, including but not limited to any of the following unlawful acts:

22 (1) Recruiting or admitting a student based upon an unlawful
23 classification or requiring as a condition of admission that the student submit
24 an ideological statement.

25 (2) Recruiting or employing an employee based upon an unlawful
26 classification or requiring as a condition of employment that the applicant
27 submit an ideological statement.

28 (3) Promoting the teaching or philosophy that a particular race, color,
29 ethnicity, national origin, sex, or any subcategory thereof is inherently superior

1 to another.

2 (4) Discriminating against or adversely treating any individual on the
3 basis of the individual's race, color, ethnicity, national origin, sex or any
4 subcategory thereof.

5 (5) Promoting the teaching or philosophy that the moral character of an
6 individual is determined by his or her race, color, ethnicity, national origin, sex,
7 or subcategory thereof.

8 (6) Promoting the teaching or philosophy that, by virtue of an
9 individual's race, color, ethnicity, national origin, or sex, or any subcategory
10 thereof, the individual is inherently racist, oppressive, or sexist whether
11 consciously or subconsciously.

12 (7) Promoting the teaching or philosophy that, by virtue of race, color,
13 ethnicity, national origin, or sex, a certain individual is inherently responsible
14 for actions committed in the past by other members of the same race, color,
15 ethnicity, national origin, or sex.

16 (8) Promoting the teaching or philosophy that fault, blame, or bias
17 should be assigned to an individual on the basis that the individual is a member
18 of a particular race, color, ethnicity, national origin, or sex.

19 (9) Promoting the teaching or philosophy that an individual is to affirm,
20 or assent to a sense of guilt, complicity, or a need to apologize on the basis of his
21 or her race, color, ethnicity, national origin, or sex.

22 (10) Any effort to compel or coerce the speech of a student in violation
23 of a student's personal political ideas or affiliation in violation of Article I,
24 Section 3 of the Constitution of Louisiana.

25 (11) Any use of self-generated fees for the purpose of promoting any
26 unlawful discrimination.

27 §3399.44. Codes of conduct, enforcement, reporting website

28 A. Each institution of higher education shall create a code of conduct and
29 disciplinary standards that shall be enforced when a student, faculty member,

1 or other employee commits an act of unlawful discrimination pursuant to this
2 Part.

3 B. Each institution of higher education shall provide an email address or
4 other portal on the institution's website whereby a student, parent, faculty
5 member, or employee may report a violation of this Part.

6 C. Beginning on January 2, 2025, and annually thereafter, each
7 institution of higher education shall provide a report to the governor, the
8 president of the Senate and the speaker of the House of Representatives
9 detailing the total number of complaints of unlawful classifications and
10 unlawful discrimination and, if applicable, the resolution of the complaints.
11 Nothing herein shall require the disclosure of the identity of the individual who
12 made the complaint.

13 §3399.45. Remedies.

14 A. A student who is harmed by an institution of higher education in
15 violation of this Part, shall have a cause of action for damages and may obtain
16 appropriate relief, including but not limited to any of the following:

17 (1)(a) Injunctive relief, protective order, writ of mandamus or a
18 prohibition, or declaratory relief to prevent any violation of this Part.

19 (b) The court may waive the requirement that the petitioner post bond
20 for good cause shown.

21 (2) Actual damages.

22 (3) Reasonable attorney fees and costs.

23 B. An employee may assert a cause of action pursuant to R.S. 23:301 et
24 seq.

25 §3399.46. Exceptions

26 Nothing in this Part shall be construed to prevent the lawful
27 classification of protected classes at an institution of higher education for the
28 purpose of complying with state or federal antidiscrimination laws.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB Original 2024 Regular Session Seabaugh

Proposed law requires that colleges and universities ensure that each student and employee is guaranteed equal protection under the law and the right to be free from discrimination pursuant to present law.

Proposed law prohibits colleges and universities from engaging in the unlawful classification or a grouping of individuals together into a preferred political class based upon race, color, ethnicity, national origin, sex, or any subcategory thereof for the purpose of conferring preferential treatment based upon the individual's classification or group and thereby unlawfully discriminating against those individuals who are not members of the politically preferred class or group.

Proposed law provides that the legislature finds and declares all of the following:

- (1) The 14th Amendment of the U.S. Constitution provides that a state is not to deny any person within its jurisdiction the equal protection of the laws.
- (2) The U.S. Supreme Court has opined that the Equal Protection Clause represents a foundational principle—the absolute equality of all citizens of the U.S. politically and civilly before their own laws and that the Constitution should not permit any distinctions of law based on race or color because any law which operates upon one person should operate equally upon all, and the 14th Amendment would hold over every American citizen, without regard to color, the protecting shield of law.
- (3) The U.S. Supreme Court further held that eliminating racial discrimination means eliminating all of it. The court further held that the Equal Protection Clause applies without regard to any differences of race, of color, or of nationality—it is universal in its application. The court also held that the guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.

Proposed law provides the following definitions:

- (1) "Employee" means any professor, faculty member, or other person employed by a college or university.
- (2) "Ideological statement" means any written or oral statement discussing the student or employee's views on race, color, ethnicity, national origin, sex, or any subcategory thereof or views regarding any theory that advocates for the differential treatment of those groups.
- (3) "Institution of higher education" means public college or university or a college or university that receives state taxpayer funds.

- (4) "Student" means any person who is an applicant or is enrolled on a full-time or part-time basis at a college or university that is public or receives state taxpayer funds.
- (5) "Unlawful classification" means any program, activity, initiative, event, instruction, class assignment, training, activity, or policy that classifies or groups individuals on the basis of race, color, ethnicity, national origin, sex, or any subcategory thereof for the purpose of promoting a certain group as inherently superior or deserving of preferential treatment. "Unlawful classification" includes the "diversity, equity, and inclusion" program or any other similar program unlawfully classifies individuals for preferential treatment.
- (6) "Unlawful discrimination" is any unlawful classification that results in an individual being deemed inherently inferior or being denied educational opportunities or employment opportunities because of the individual's race, color, ethnicity, national origin, sex, or any subcategory thereof.
- (7) "Self-generated fees" mean those fees that are paid by a student along with tuition when the student enrolls for a semester or course of study.

Proposed law prohibits colleges and universities from engaging in unlawful discrimination, including but not limited to any the following unlawful acts:

- (1) Recruiting or admitting a student based upon an unlawful classification or requiring as a condition of admission that the student submit an ideological statement.
- (2) Recruiting or hiring an employee based upon an unlawful classification or requiring as a condition of employment that the applicant submit an ideological statement.
- (3) Promoting the teaching or philosophy that a particular race, color, ethnicity, national origin, sex, or any subcategory thereof is inherently superior to another.
- (4) Discriminating against or adversely treating any individual because of the individual's race, color, ethnicity, national origin, sex, or any subcategory thereof.
- (5) Promoting the teaching or philosophy that the moral character of an individual is determined by his or her race, color, ethnicity, national origin, sex, or subcategory thereof.
- (6) Promoting the teaching or philosophy that, by virtue of an individual's race, color, ethnicity, national origin, or sex, or any subcategory thereof, the individual is inherently racist, oppressive, or sexist whether consciously or subconsciously.
- (7) Promoting the teaching or philosophy that, by virtue of race, color, ethnicity, national origin, or sex, a certain individual is inherently responsible for actions committed in the past by other members of the same group.
- (8) Promoting the teaching or philosophy that fault, blame, or bias should be assigned to an individual on the basis that the individual is a member of a particular race, color, ethnicity, national origin, or sex.
- (9) Promoting the teaching or philosophy that an individual is to affirm, or assent to a sense of guilt, complicity, or a need to apologize on the basis of his or her race, color, ethnicity, national origin, or sex.
- (10) Any effort to compel the speech of a student in violation of a student's personal political ideas or affiliation in violation of present law.
- (11) Any use of self-generated fees for the purpose of promoting any unlawful

discrimination.

Proposed law requires each college or university to create a code of conduct and disciplinary standards that are to be enforced when a student, faculty member, or other employee commits an act of unlawful discrimination pursuant to proposed law. Requires that each college or university is to provide an email address or other portal on the institution's website whereby a student, parent, faculty member, or employee may report a violation of proposed law.

Proposed law provides that each college or university annually report, beginning January 2, 2025, the total number of complaints of unlawful classifications and unlawful discrimination and, if applicable, the resolution of the complaints. The report is to be sent to the governor, the president of the Senate and the speaker of the House of Representatives.

Proposed law provides a student who is harmed by a college or university due to violation of proposed law is to have a cause of action for damages or an injunction to prevent the violation, as well as actual damages, reasonable attorney fees and costs.

Proposed law provides that a faculty member or other employee may assert a cause of action pursuant to the antidiscrimination provisions of law in present law.

Proposed law provides that nothing in proposed law is to be used to prevent the lawful classification of protected classes at a college or university for the purpose of complying with state or federal antidiscrimination laws.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 17:3399.41-3399.46)