

Frequently Asked Questions: Attacks on DEI in Tennessee's Schools and Government

In 2025, legislators at the Tennessee General Assembly passed two laws aimed at eradicating diversity, equity, and inclusion (“DEI”) initiatives in state and local government and public education. These laws are part of a broader nationwide effort led by the Trump administration to shut down important programs, resources, and opportunities that have promoted justice and fairness for marginalized communities across our state and country.

Dismantling DEI Departments Act

What does the Dismantling DEI Departments Act Do?

Under the Dismantling DEI Departments Act, passed by the Tennessee General Assembly in 2025, all of Tennessee’s governmental entities and public institutions of higher education are prohibited from using “discriminatory preferences” to “increase diversity, equity, or inclusion,” or to maintain offices, divisions, or departments for that purpose.¹ This law defines a “discriminatory purpose” as “a policy, practice, or requirement that grants or withholds benefits, opportunities, advantages, or disadvantages to an individual or group based on race, ethnicity, sex, age, or any other demographic characteristic, rather than on individual merit, qualifications, or lawful eligibility criteria.”²

There are only two listed exceptions to this definition, and they only apply to the state government, not local governments. First, public health research and programs that rely on demographic information and outreach for “medically substantiated reasons” are permitted under this definition.³ Second, the definition does not include most “[l]awful and neutral outreach programs that ensure equal access to state services or contracting based on objective eligibility criteria.”⁴

How will the Dismantling DEI Departments Act be applied?

Because the law defines “discriminatory purpose” so broadly, it’s unclear which practices are banned. Most covered entities will likely need to shut down their DEI offices or departments. Other programs—like affinity groups, identity-based scholarships, and campus spaces—face uncertainty. Without further guidance or court rulings, many questions remain about what will be allowed.

Dismantle DEI in Employment Act

What does the Dismantle DEI in Employment Act do?

The Dismantle DEI in Employment Act, also passed by the Tennessee legislature in 2025, prohibits all of Tennessee’s governmental entities, public institutions of higher education, and local education agencies from considering any metrics related to an employee or applicant’s “race, ethnicity, sex, age, or any other similar demographic characteristic, rather than on individual merit, qualifications, veteran status, or lawful eligibility criteria.”⁵ This prohibition on DEI considerations also applies to “employment decisions” including all actions related to “hiring, firing, retention, promotion, demotion, discipline, evaluation, compensation, training, reassignment, or any other term, condition, or privilege of employment,” except those required by state and federal law.⁶ Lastly, the law prohibits the state board of education from adopting or maintaining any policy that “promotes educator diversity based on race, ethnicity, sex, age, or any other demographic characteristic, rather than on individual merit, qualifications, veteran status, or lawful eligibility criteria.”⁷

How will the Dismantle DEI in Employment Act be applied?

Here, application of the law seems more straightforward. The law applies to hiring by governmental and educational institutions across the state and forbids them from considering specific characteristics of applicants and employees when making an “employment decision,” which has a specific definition in the law. Thus, any entity that uses one of the impermissible characteristics or metrics in their employment decisions could face liability under this law.

Still, there is some ambiguity around the meaning of the phrase “similar demographic characteristic,” which is not further defined in the law. The legislative debate surrounding this law suggests that the term was intended to refer to other immutable characteristics, such as sexual orientation,⁸ but this is not reflected in the text of the law. Similarly, the term “lawful eligibility criteria” does not have an obvious definition and remains open to interpretation. During debate, the sponsor of the bill acknowledged that one valid example of “lawful eligibility criteria” is a court-ordered consent decree demanding a school district specifically recruit African American teachers.⁹ It seems, therefore, that existing court-ordered legal obligations would constitute “lawful eligibility criteria.”

To avoid liability without an exemption, then, all employment decisions would likely need to be made in a characteristic-neutral manner, in compliance with all state and federal equal opportunity in employment and anti-discrimination laws and regulations.

Exemptions

Both laws have identical exemption procedures. The only way to lawfully refuse compliance with this law is by seeking an exemption from the state comptroller of the treasury. Once they receive written notice, the comptroller will review the request for an exemption and grant it if compliance with this law would lead to a loss of federal funding.¹⁰ Any exemption must be renewed on an annual basis.¹¹

How will these anti-DEI laws be enforced?

Both laws have been signed by the governor and are now in effect, but it remains unclear how exactly they will be enforced. Unlike many other discriminatory laws passed by the Tennessee General Assembly in recent years, these laws do not include specific provisions explaining how violations could be addressed through investigations or lawsuits. Without such a clause, it seems that third parties will not be able to bring legal claims against governmental or educational institutions they believe have violated any of these laws. Any parties harmed by a policy prohibited under one of the laws, however, would still likely be able to sue in state court. Violations of the anti-discrimination in employment provisions of the Dismantle DEI in Employment Act can likely be remedied through employment discrimination lawsuits.

In short, there is still significant uncertainty about the exact enforcement mechanisms available for both laws. The vagueness around the scope and enforcement of these laws is especially troubling due to the likelihood it will cause government entities and public schools to self-censor and cease otherwise permissible activities out of fear of violating the law. Nonetheless, over time, it is possible that further clarifications will be available through administrative rulemaking by state agencies or decisions from various state courts.

Repealed DEI Initiatives in Tennessee Law

The Dismantling DEI Departments Act modifies numerous sections of Tennessee code to delete various provisions that supposedly support diversity, equity, and inclusion. Below is a small, non-exhaustive list of these changes illustrating the type of policies and procedures targeted under this law:¹²

- Removes requirements that at least one of the private citizens serving on the Tennessee Historical Commission must be 60 years of age or older and one must be a member of a racial minority (with a focus on African American and Native American ancestry).¹³
- Removes requirements that at least one member appointed to the Tennessee Arts Commission must be 60 years of age or older and one must be a member of a racial minority.¹⁴
- Removes the requirement that the Tennessee Arts Commission employ someone to identify, survey, and advocate for underserved and underrepresented artists.¹⁵
- Removes requirements that the commissioner of revenue and the commissioner of economic and community development ensure that additional investment tax credits are awarded to applicants whose teams are reflective of Tennessee's racial, ethnic, and gender diversity.¹⁶
- Removes requirements that industrial development corporations ensure fair competition for minority owned businesses.¹⁷
- Removes the general requirement that the governor, through their appointments, ensures that at least one member of the various boards, commissions, committees, and other governing or advisory entities is 60 years of age or older and one is a member of a racial minority.¹⁸

NOTE ABOUT CITATIONS: Many of the provisions have not been implemented into Tennessee Code yet. The citations provided are informed estimates based on the legislation and may be subject to change.

¹ Tenn. Code Ann. § 4-1-426(a)(1); Tenn. Code Ann. § 5-1-136(a)(1); Tenn. Code Ann. § 6-54-151(a)(1); Tenn. Code Ann. § 7-3-108(a)(1); Tenn. Code Ann. § 49-7-193(a)(1).

² Tenn. Code Ann. § 4-1-426(a)(2)(A); Tenn. Code Ann. § 5-1-136(a)(2); Tenn. Code Ann. § 6-54-151(a)(2); Tenn. Code Ann. § 7-3-108(a)(2); Tenn. Code Ann. § 49-7-193(a)(2).

³ Tenn. Code Ann. § 4-1-426(a)(2)(B)(i).

⁴ Tenn. Code Ann. § 4-1-426(a)(2)(B)(ii).

⁵ Tenn. Code Ann. § 8-30-109(b); Tenn. Code Ann. § 5-1-135(b); Tenn. Code Ann. § 6-54-150(b); Tenn. Code Ann. § 7-3-107(b); Tenn. Code Ann. § 49-2-141(b); Tenn. Code Ann. § 49-7-192(b).

⁶ Tenn. Code Ann. § 8-30-109(d); Tenn. Code Ann. § 5-1-135(d); Tenn. Code Ann. § 6-54-150(d); Tenn. Code Ann. § 7-3-107(d); Tenn. Code Ann. § 49-2-141(d); Tenn. Code Ann. § 49-7-192(d).

⁷ Tenn. Code Ann. § 49-1-302(g).

⁸ Education Committee: <https://tnga.granicus.com/player/clip/31907>

⁹ Senate State and Local Government Committee: <https://tnga.granicus.com/player/clip/31838>

¹⁰ Tenn. Code Ann. § 4-1-426(b)(1); Tenn. Code Ann. § 5-1-136(b)(1); Tenn. Code Ann. § 6-54-151(b)(1); Tenn. Code Ann. § 7-3-108(b)(1); Tenn. Code Ann. § 49-7-193(b)(1); Tenn. Code Ann. § 8-30-109(c)(1); Tenn. Code Ann. § 5-1-135(c)(1); Tenn. Code Ann. § 6-54-150(c)(1); Tenn. Code Ann. § 7-3-107(c)(1); Tenn. Code Ann. § 49-2-141(c)(1); Tenn. Code Ann. § 49-7-192(c)(1).

¹¹ Tenn. Code Ann. § 4-1-426(b)(2); Tenn. Code Ann. § 5-1-136(b)(2); Tenn. Code Ann. § 6-54-151(b)(2); Tenn. Code Ann. § 7-3-108(b)(2); Tenn. Code Ann. § 49-7-193(b)(2); Tenn. Code Ann. § 8-30-109(c)(2); Tenn. Code Ann. § 5-1-135(c)(2); Tenn. Code Ann. § 6-54-150(c)(2); Tenn. Code Ann. § 7-3-107(c)(2); Tenn. Code Ann. § 49-2-141(c)(2); Tenn. Code Ann. § 49-7-192(c)(2).

¹² The full list of repealed DEI programs is available in the text of the bill: <https://www.capitol.tn.gov/Bills/114/Amend/SA0330.pdf>

¹³ See Tenn. Code Ann. § 4-1-102(e)(1).

¹⁴ See Tenn. Code Ann. § 4-20-101(a)(2).

¹⁵ See Tenn. Code Ann. § 4-20-107.

¹⁶ See Tenn. Code Ann. § 4-28-105(g).

¹⁷ See Tenn. Code Ann. § 7-53-313.

¹⁸ See Tenn. Code Ann. § 8-1-111.