

COMMONWEALTH ★ ★ ★ POLICY CENTER ★ ★ ★

Senate Bill 6 Backgrounder

The Bottom Line

Introduced by Sen. Mike Wilson (R-Logan), SB 6 will prohibit public colleges from discriminating against students and employees for refusing to support a “divisive concept,” “specific ideology or political viewpoint.”

What are “divisive concepts”?

- “One (1) race or sex is inherently superior or inferior to another race or sex; An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously.”
- “An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.”
- “An individual's moral character is determined by the individual's race or sex.”
- “An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.”
- “The Commonwealth of Kentucky or the United States of America is fundamentally or irredeemably racist or sexist.”
- “The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups.”
- Et al.

What will prevent public colleges and universities from...

- Penalizing students and employees for refusing to support racist or sexist ideologies
- Requiring students and employees to endorse specific ideologies and political views.
- Asking about a student of employee’s political views on an application.
- Holding mandatory student and employee training that teaches racist or sexist ideologies.
- Implementing teaching materials that teach racist or sexist ideologies.
- Using state funds to incentivize faculty to assign use racist or sexist teaching materials.

SB 6 also...

1. Requires the Attorney General to act against public colleges and universities which violate these regulations.
2. Requires public colleges and universities of conduct 2025 and 2027 surveys of students and employees about diversity of thought and free speech.
3. Allows victims of violations to file lawsuits against their institution of up to \$100,000 per violation.

Answering Common Objections

- It denies Kentucky's real history of racism and sexism.
 - The Editorial Board of the Lexington Herald-Leader has argued that this bill will require teachers to overlook real historical injustices.¹ But SB 6 does not prevent universities from teaching about the sad realities in America's past. It does prevent them from teaching that, because of these injustices, America's political institutions are illegitimate and should be deconstructed. For a public university supported by tax dollars, such positions are incoherent.
- It will punish freedom of expression and freedom of thought.
 - SB 6 does not ban university students and employees from believing principles of critical theory or DEI initiatives. Students and employees are free to study and believe as they wish.
 - That being said, critical theory has traditionally rejected principles of academic freedom, arguing that conservative beliefs should be oppressed.² Consequently, it is legitimate to ask if these "divisive concepts" can coexist with rival belief systems in a truth-seeking academic institution.
- It will undermine legitimate attempts to diversify public colleges and universities.
 - This concern was recently raised by University of Kentucky President Eli Capilouto who wrote in an email concerning SB6 and similar bills, "Let's not extinguish the thirst for knowledge because certain questions aren't allowed because they are uncomfortable or challenging."³
 - As noted above, the bill does nothing to eliminate diversity initiatives on college campuses. It protects faculty and students from being coerced and penalized due to their political and ideological views.
 - A perfect example is Rebekah Keith. She was asked about her preferred pronouns and stance on injustice when applying to be a resident advisor.⁴
 - Senator Wilson has said that the bill is intended to protect free speech and that it won't stop diversity initiatives.⁵
 - Section 4 of the bill makes this clear: "If a public postsecondary education institution employs or contracts an individual whose primary duties include diversity initiatives, then the individual's duties shall include efforts to strengthen and increase intellectual diversity among the students and faculty of the public postsecondary education institution at which they are employed."⁶
 - This bill is actually a call for greater diversity on Kentucky campuses: intellectual diversity.

Is DEI a problem in Kentucky?

- Diversity, Equity, and Inclusion (DEI) offices and initiatives are present on multiple campuses:
 - University of Kentucky⁷
 - UK hosted an anti-racist event in 2021 where faculty members were told to accept their "white inferiority."⁸
 - University of Louisville⁹

- UofL's Health Science Center offers a training on "the science and research of unconscious bias."¹⁰
- UofL's Office of Institutional Equity has posted a Land Acknowledgement on their website.¹¹
- Western Kentucky University¹²
 - WKU offers a separate academic assistance program and Living Learning Community, primarily for students of color.¹³

What are the problems with Diversity, Equity, and Inclusion (DEI) initiatives?

- DEI is based in an unsound and politically destructive ideology.
 - DEI initiatives are rooted in Critical Theory, a social philosophy that believes society is categorized by oppressors and oppressed.
 - Those who are white, Christian, heterosexual, cisgender, able-bodied, or male are oppressors.
 - Critical theorists believe that individuals in these categories automatically have an advantage in society and are consciously or unconsciously oppressing anyone who does not fit into these categories.
- DEI emphasizes equity, not equality.
 - "While equality assumes that all people should be treated the same, equity takes into consideration a person's unique circumstances, adjusting treatment accordingly so that the end result is equal."¹⁴
 - Equity is the equality of outcome. This means, according to a DEI framework, that everyone should have the same outcome otherwise injustice is assumed.
- DEI undermines many of our nation's foundational political principles.
 - Equality before the law is denied in the name of equity.
 - The inherent dignity of every person is denied because persons who disagree politically or belong to the oppressor (white) race are deemed complicit in white supremacy.
 - Freedom of speech and expression are denied as well in the name of affirmation.
- DEI is necessarily divisive.
 - Because of its basis in Critical Theory, DEI initiatives focus on the differences between races rather than commonalities.
- DEI controls speech.
 - Philanthropist Bill Ackmann has argued, "The DEI movement has also taken control of speech. Certain speech is no longer permitted. So-called "microaggressions" are treated like hate speech. "Trigger warnings" are required to protect students. "Safe spaces" are necessary to protect students from the trauma inflicted by words that are challenging to the students' newly-acquired world views. Campus speakers and faculty with unapproved views are shouted down, shunned, and cancelled."¹⁵
- American universities do not need DEI to attract a diverse student body.
 - American universities are already far more diverse than universities in Europe, Asia and South America.
 - This isn't because of DEI. It's because American universities "have been extremely competitive at attracting talent from all over the world."¹⁶

- DEI initiatives undermine the logic of the Supreme Court’s *Students for Fair Admissions v. Harvard College* ruling against race-based affirmative action.
 - Chief Justice Roberts said that students should be treated based on their “...experiences as an individual—not on the basis of race. Many universities have for too long done just the opposite. And in doing so, they have concluded, wrongly, that the touchstone of an individual’s identity is not challenges bested, skills built, or lessons learned but the color of their skin. Our constitutional history does not tolerate that choice.”¹⁷

¹Editorial Board, “Banning DEI is the Kentucky legislature’s gentler form of bigotry. They need to stop.” *Lexington Herald Leader*

²Herbert Marcuse, *Repressive Tolerance*, in *A Critique of Pure Tolerance* (Boston: Beacon Press, 1965).

³Monica Kast, Alex Acquisto, “UK president to legislature: Proposed DEI, tenure legislation is ‘deeply concerning,’” *Lexington Herald Leader*, March 8, 2024, <https://www.kentucky.com/news/local/education/article285472277.html>.

⁴Kast and Acquisto, “UK president to legislature.”

⁵ Bruce Schreiner, “Kentucky Senate committee advances bill limiting diversity, equity and inclusion initiatives,” AP, February 8, 2024, <https://apnews.com/article/kentucky-colleges-diversity-equity-inclusion-legislature-4cf279f148e8421310996fda71b56294>.

⁶https://apps.legislature.ky.gov/recorddocuments/bill/24RS/sb6/orig_bill.pdf.

⁷“Diversity, Equity, and Inclusion,” University of Kentucky, <https://dei.uky.edu>.

⁸Julia Johnson, “University of Kentucky Spends Thousands On Anti-Racist Workshop Urging Administrators To Accept ‘White Inferiority Complex,’” *Young America’s Foundation*, July 19, 2023, <https://yaf.org/news/university-of-kentucky-spends-thousands-on-anti-racist-workshop-urging-administrators-to-accept-white-inferiority-complex/>.

⁹“Office of Institutional Equity,” University of Kentucky, <https://louisville.edu/diversity>.

¹⁰“Implication of Bias in the Health Professions,” University of Louisville Health Sciences Center Office of Diversity and Inclusion, <https://louisville.edu/hsc/diversity/programming/everyday-bias-workshop-for-the-health-professions>.

¹¹“Land Acknowledgement,” University of Louisville Office of Institutional Equity, <https://louisville.edu/diversity/about-us/land-acknowledgement>.

¹²“One WKU,” Western Kentucky University, <https://www.wku.edu/dei/>.

¹³“Cynthia and George Nichols III ISEC Academy,” Western Kentucky University, <https://www.wku.edu/isec/isecacademy.php>.

¹⁴“What is diversity, equity, and inclusion?” McKinsey & Company, August 17, 2022, <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-diversity-equity-and-inclusion>.

¹⁵Quoted in Richard Nelson, “Legislature pushes back against DEI, viewpoint discrimination in higher ed,” Northern Kentucky Tribune, February 17, 2024, <https://nkytribune.com/2024/02/opinion-richard-nelson-legislature-pushes-back-again-dei-viewpoint-discrimination-in-higher-ed/>.

¹⁶Dorian S. Abbot and Ivan Marinovic, “The Diversity Problem on Campus,” *Newsweek*, August 12, 2021, <https://www.newsweek.com/diversity-problem-campus-opinion-1618419>.

¹⁷Hans A. von Spakovsky, “Will Colleges Reject Racial Discrimination?” The Heritage Foundation, January 17, 2024, <https://www.heritage.org/education/commentary/will-colleges-reject-racial-discrimination>.