

TENNESSEE DIVISIVE CONCEPTS ACT

The Tennessee Higher Education Freedom of Expression and Transparency Act (“the Act”) prohibits Tennessee public institutions of higher education from taking certain actions regarding divisive concepts and the ideologies or political viewpoints of students and employees. It also addresses mandatory training that includes divisive concepts as defined in the Act.

Divisive Concepts Defined

Under the Act, the following concepts are considered “divisive”:

- One race or sex is inherently superior 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;
- An individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;
- A meritocracy is inherently racist or sexist, or designed by a particular race or sex to oppress members of another race or sex;
- This state or the United States is fundamentally or irredeemably racist or sexist;
- Promoting or advocating the violent overthrow of the United States government;
- Promoting division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;
- Ascribing character traits, values, moral or ethical codes, privileges, or beliefs to a race or sex, or to an individual because of the individual's race or sex;
- The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;
- All Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including, life, liberty, and the pursuit of happiness;
- Governments should deny to any person within the government's jurisdiction the equal protection of the law;
- Race or sex stereotyping, which is defined as ascribing traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of race or sex; and
- Race or sex scapegoating, which is defined as assigning fault, blame, or bias to a race or sex, or to members of a race or sex, because of their race or sex, and includes any claim that consciously or subconsciously, and by virtue of a person's race or sex, members of a race are inherently racist or inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.

Prohibitions Under the Act

Neither UT Health Science Center nor any UT Health Science Center employee shall:

- penalize, discriminate against, or treat adversely either a student or employee because the individual refused to support, believe, endorse, embrace, confess, act upon, or otherwise assent to one or more divisive concepts;
- require a student or employee to endorse a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation;
- require an applicant for employment or admission to submit a personal diversity statement or to affirm the applicant's agreement with a diversity statement as part of the application or admissions process;
- ask the ideological or political viewpoint of a student, job applicant, job candidate, or candidate for promotion or tenure;
- use state funding to incentivize faculty to incorporate one or more divisive concepts into academic curricula; or
- approve or use state funds for fees, dues, subscriptions, or travel in conjunction with the membership, meetings, or activities of an organization if participation in such organization requires an individual, or an individual's employer, to endorse or promote a divisive concept.

Diversity, Equity, and Inclusion

If UT Health Science Center employs an individual whose primary job title includes diversity, equity, or inclusion, then:

- A) The university must ensure that the employee's efforts strengthen and increase intellectual diversity and promote a climate that facilitates the free and respectful exchange of ideas; and
- B) The university must ensure that the employee's duties include efforts devoted to supporting student academic achievement and workforce readiness, such as mentoring, career readiness and support, workforce development, or other related learning support activities necessary for the academic and professional success of all students.

Freedom of Speech and Expression

Nothing in the Act shall be interpreted to:

1. Infringe on freedom of speech protected by the First Amendment
2. Infringe on faculty's rights of academic freedom
3. Require an employee to:
 - a. Violate any federal or state law, rule, or regulation; or
 - b. Fail to comply with any applicable academic accreditation requirement;
4. Prohibit UT Health Science Center from training students or employees on the nondiscrimination requirements of federal or state law; or
5. Prohibit UT Health Science Center from promoting diversity, equity, and inclusion, provided that those efforts are consistent with State law.

Training

In regard to training, which includes seminars, workshops, and orientations, UT Health Science Center shall not:

1. Conduct any mandatory training of students or employees if the training includes one or more divisive concepts;
2. Use training programs or training materials for students or employees if the program or material includes one or more divisive concepts; or
3. Use state-appropriated funds to incentivize, beyond payment of regular salary or other regular compensation, a faculty member to incorporate one or more divisive concepts into academic curricula.

Guest Speakers and Student Groups-Use of University Property

Subject to appropriate constitutional time, place, and manner restrictions in accordance with applicable law, for purposes of approving or scheduling usage of university property, UT Health Science Center shall not show bias or favoritism for or against:

- A student group that is peaceful and requests to use university property in a peaceful and lawful manner;
- A guest speaker's, or a guest speaker's student-sponsoring group's, viewpoint, race, creed, color, religion, non-violent political ideology, or non-violent political party affiliation; or
- A student group that, or a guest speaker who, intends to maintain a peaceful campus presence and peaceful use of university property on grounds that UT Health Science Center has received threatened simple breaches of the peace or non-destructive disruptions from groups or individuals who oppose the student group's or guest speaker's presence on campus.

UT Health Science Center shall not:

- Require a student group to pay fees or security deposits that are not charged to all other student groups; or
- Deny a student group access to university property if the property is routinely used by other student groups.

However, UT Health Science Center may restrict or deny use of university property for public displays, organized public gatherings, or public demonstrations if the display, gathering, or demonstration would violate T.C.A. § 39-17-902 or § 49-7-2405.

Contact the **Office of Access and Compliance**

901.448.2112 | oac-hsc@uthsc.edu | uthsc.edu/access-compliance

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