

South Texas College

Senate Bill 17 Guidance

SB 17 Restrictions

1. What restrictions are included in SB 17?

A. DEI offices are prohibited.

An institution of higher education cannot maintain a diversity, equity, and inclusion (DEI) office, which is defined as an institution office, division, or unit established for the purpose of:

- i. Influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination law;
- ii. Promoting differential treatment of or providing special benefits on the basis of race, color, or ethnicity;
- iii. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the College's legal counsel and the Texas Higher Education Coordinating Board (THECB), and for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- iv. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the College's legal counsel, and the THECB, and for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

B. Performing the duties of a DEI office is prohibited.

- i. The College cannot hire or assign an employee of the College or contract with a 3rd-party to perform the duties of a prohibited DEI office. *Note:* SB 17 does not apply to the internal operations or programs of a contractor/3rd-party.

C. DEI statements are prohibited.

- i. No department or unit of the College can compel, require, induce, or solicit any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement.

D. Giving preference based on race, sex, color, ethnicity, or national origin is prohibited.

- i. No department or unit of the College can give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution. This restriction is consistent with the federal anti-discrimination laws.

E. Mandatory DEI training in connection with any institution function is prohibited.

- i. No department or unit of the College can mandate as a condition of enrolling at the College or performing any College function the requirement for any person to participate in DEI training which includes a training designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation. *Note:* the

training prohibition does not apply to training designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation when it is (1) developed by an attorney; (2) approved in writing by the College's Legal Counsel and the Texas Higher Education Coordinating Board; and (3) for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

DEI Office

2. May the College operate an office or department that conducts DEI programs and activities?

No. Under SB 17, an institution may not operate an office that engages in the practices listed in Question 1, A, i-iv.

DEI Statement

3. What is a DEI statement?

The College interprets a "DEI statement" to mean a written or oral statement of a person's commitment to (1) furthering diversity, equity, and inclusion based on race, color, ethnicity, national origin, sex, gender identity, or sexual orientation or (2) promoting differential treatment of or providing special benefits to individuals based on their identification as a member of one or more of these classifications. A "DEI statement" does not include a non-discrimination statement, which typically explains federal and state law obligations, and does not include information submitted in connection with HUB certification.

4. In the context of a person providing a DEI statement, what does it mean to give "preferential consideration"?

Under SB 17, a person may not be afforded "preferential consideration" for providing a DEI statement. The College interprets "preferential consideration" to mean treating one person more favorably than another because they provided a DEI statement.

5. Does SB 17 require institutions to expressly prohibit applicants for employment or admission from providing a DEI statement?

No, SB 17 does not require the College to expressly prohibit applicants for employment or admission from voluntarily providing DEI statements in response to job postings, applications, or other stages of the hiring or admissions processes. If an applicant provides an unsolicited DEI statement, the College cannot give preferential consideration based on the provided DEI statement.

6. What is the appropriate response or course of action if an applicant for employment provides an unsolicited DEI statement?

To the extent possible, the College should remove any unsolicited DEI statements from an applicant's application materials before the application is provided to the relevant search committees and decisionmaker(s). If not removed, any unsolicited statement must not be considered positively or negatively.

DEI Preferences

7. What does it mean to “give preference on the basis of” the listed classifications in “any function of the institution”?

SB 17 prohibits giving “preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.” This restriction is consistent with federal antidiscrimination law. To “give preference on the basis of” a classification means to treat one person more favorably than another because of that classification. “Function” is expansive and includes an institution’s employment, academic, and service functions.

8. What is a special benefit?

SB 17 does not define “special benefit.” The College interprets “special benefit” to mean a term, condition, opportunity, or privilege that is unavailable, or substantially better than what is offered, or provided to others. Opportunities open to all are not considered a “special benefit.”

DEI Training

9. Does SB 17 impact Title IX training required by the federal government?

Title IX training required by federal law is not impacted by SB 17. The bill specifically allows for DEI-related training and activities if they are necessary to comply with federal or state laws, which would include Title IX requirements. Institutions must continue to comply with federal Title IX regulations despite the provisions of SB 17.

10. May a student or employee participate in voluntary DEI training offered by an outside vendor?

Generally, yes. SB 17 does not restrict a student or employee from voluntarily participating in a non-College-related DEI training offered by an outside vendor. Furthermore, the College, cannot contract with an outside vendor for the purpose of providing DEI training.

Federal Laws

11. Does SB 17 impact the application of existing federal laws?

No. Federal laws, including the U.S. Constitution First Amendment, the U.S. Constitution Fourteenth Amendment Equal Protection Clause, Titles VI and VII of the Civil Rights Act of 1964, and Title IX of the Civil Rights Act of 1972, preempt the application of SB 17 to the extent there is a conflict. SB 17 accounts for this by providing exceptions to the bill’s prohibitions for compliance with federal law.

Grants/Scholarships

12. How does SB 17 impact grants and scholarships?

SB 17 does not limit or prohibit an institution of higher education or an employee of an institution of higher education from: for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grant or accrediting agency a statement that highlights the institution's work in supporting first-generation college students; low-income students; or underserved student populations; or certifies compliance with state or federal anti-discrimination laws.

However, SB 17 does not authorize a grant to perform DEI work that does not constitute academic course instruction, scholarly research or creative work, data collection, or another activity specifically exempted by SB 17. For example, a grant cannot be sought to establish an office or department within the College to perform DEI work as defined by the statute.

13. May the College continue to participate in a grant awarded prior to the effective date of SB 17 if it requires the performance of DEI-related work?

SB 17 does not explicitly address ongoing grants awarded prior to their effective date. However, SB 17 took effect on January 1, 2024, with no specific sunset window provided. DEI activities explicitly prohibited by SB 17 cannot be mandated or carried out by the institution, even if they are related to grant requirements. The College should carefully evaluate grants that require DEI activities or functions explicitly prohibited by SB 17. If a grant mandates DEI activities that involve establishing or maintaining DEI offices, conducting DEI training, or any other DEI functions that SB 17 restricts, the College should avoid applying for such grants to ensure compliance with the law.

The College must ensure that compliance with SB 17 does not conflict with the terms and conditions of any grants they are applying for or managing. Therefore, it is essential to thoroughly review the requirements of each grant and seek legal counsel if there is any uncertainty regarding compliance with SB 17.

14. How does SB 17 affect student scholarships?

Student scholarships are not affected by SB 17 if they are awarded and administered by an institution of higher education without regard to race, sex, color, ethnicity, or national origin, and if a DEI statement is not required or considered as part of the application.

However, if a scholarship is closed to a specific race, color, ethnicity, nation of origin, sex, gender identity, or sexual orientation, an institution of higher education cannot support the efforts, participate in the award, or the implementation of the scholarship under SB 17 and federal law. The restriction on closed scholarships applies whether the college originates the scholarship or participates in the promotion, award, or administration of the scholarship on behalf of a third party.

Exceptions

15. Are there any exceptions to SB 17?

Yes, the restrictions contained in SB 17 do not apply to:

- i. Academic course instruction;
- ii. Scholarly research or a creative work by an institution's students, faculty, or other research personnel or the dissemination of that research or work;
- iii. An activity of a student organization registered with or recognized by an institution;
- iv. Guest speakers or performers on short-term engagements;
- v. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
- vi. Data collection; or
- vii. Student recruitment or admissions.

Academic Course Instruction

16. How does SB 17 impact "academic course instruction"?

SB 17 specifically states that the restrictions do not apply to academic course instruction. Faculty retain academic freedom in how they provide instruction in their assigned courses, curriculum, practicums, seminars, clinical rotations, executive education programs, and any other academic instructional or clinical training setting. The College maintains its commitment to academic freedom, freedom of speech, and freedom of expression, to promote open inquiry and expand knowledge. Example: A professor teaching a course that includes DEI content.

17. May a professor discuss race, ethnicity, sex, gender, gender identity, sexual orientation, or related topics in their academic course instruction?

Yes. SB 17 does not apply to academic course instruction, scholarly research, or creative work by students, faculty, or other research personnel or the dissemination of that research work.

18. May a professor use a diversity statement in their course syllabus?

A professor may, on their own syllabus, use a statement relating to DEI if it pertains to academic course instruction. However, such statements must not indicate an intention to treat students differently or in a preferential manner on the basis of their race, sex, color, ethnicity, or national origin.

19. May academic programs invite conferences and symposia involving research presented by guests from outside the College where the research focuses on DEI issues?

Yes. SB 17 specifically exempts research, data collection, and guest speakers on a particular topic.

Scholarly research or creative work

20. May faculty and students engage in research or create works addressing DEI?

Yes. SB 17 specifically excludes scholarly research or creative works by students, faculty, or other research personnel. Example: Research projects or creative endeavors related to DEI topics.

Student Organizations

21. How does SB 17 impact recognized student organizations?

Student organizations are not affected by SB 17. The law specifically exempts an activity of a student organization registered with or recognized by an institution of higher education.

22. May an institution of higher education deny benefits to student organizations that have the express purpose of conducting DEI programming?

No. SB 17 exempts student organizations from its restrictions.

23. What is considered an “activity” of a student organization?

SB 17 does not define “activity.” The College interprets the term broadly to encompass all functions of a student organization.

24. May an institution provide funding to a recognized student organization that is organized in reference to race, color, ethnicity, gender identity, or sexual orientation?

Yes, if provided to all student organizations in a neutral manner without regard to race, color, ethnicity, gender identity, or sexual orientation.

Guest Speakers

25. May the College host a guest speaker to present on DEI?

Yes, guest speakers on a short-term arrangement are exempt from SB 17. Example: Inviting a guest speaker to a one-time event related to DEI.

Student Academic Achievement and Post-Graduate Outcomes

26. What are examples of student academic achievement and post-graduate outcomes?

Examples of programs designed to enhance student academic achievement and postgraduate outcomes without considering race, sex, color, or ethnicity include:

- i. Academic Support Programs: Tutoring services, study groups, and workshops designed to help all students improve their academic performance.
- ii. Career Services: Providing resume writing workshops, interview preparation sessions, and job placement assistance for all students.
- iii. Mentorship Programs: Pairing students with faculty or industry professionals to provide guidance and support throughout their academic and early career paths.
- iv. Internship and Co-op Opportunities: Facilitating connections between students and potential employers for hands-on learning experiences that enhance their skills and employability.

27. May the College assist students with obtaining fellowships or internships that focus on DEI?

Yes. College assistance in obtaining career opportunities, including fellowships or internships, is exempt from SB 17 if the College’s assistance is designed and implemented without regard to the race, sex, color, or ethnicity of the student. Career centers, as well as student success resources, must be available to all students, regardless of their particular career choice. For example, a student applying for a fellowship with an organization that has a mission of addressing discrimination based on race, color, ethnicity, sex, gender, gender identity, or sexual orientation may seek assistance from the College as long as that assistance is available to all students, regardless of their race, sex, color, or ethnicity.

28. May faculty or staff write a Letter of Recommendation for a student who is applying for a position or internship with an external group focused on race, sex, gender, national origin, sexual orientation, or gender identity?

Yes, SB 17 does not prohibit staff or employees from writing letters of recommendation for students. For example, a letter of recommendation for a summer internship with the NAACP would be permitted.

Data Collection

29. May researchers use race, ethnicity, color, or sex in gathering data for research?

Yes, SB 17 exempts research and data collection.

Student Recruitment or Admissions

30. Does SB17 prohibit the College from engaging in efforts to recruit a diverse pool of prospective students?

No. SB17 does not prohibit the College from engaging in efforts to recruit a diverse pool of prospective students.

31. May the College send recruitment staff to an event geared towards recruiting underserved racial or ethnic groups?

Yes.

32. May the College train recruitment staff on cultural competence that will assist them in recruiting students from certain identity groups (race, ethnicity, sex, etc.)

Yes.

Accreditation

33. What type of information may be submitted for the purposes of complying with an accrediting agency?

The College may submit, for purposes of complying with the terms of accreditation by an accrediting agency, a statement that highlights the College's work in supporting first-generation college students, low-income students, or underserved student populations or certifies compliance with state and federal anti-discrimination law.

Events, Programs, and Activities

34. May the College host college/department-wide events or programs that support diversity in a general way?

Yes, events or programs that support diversity in a general way are not affected by SB 17 as long as they do not promote preferential treatment of any particular group and are open to everyone. Examples include, but are not limited to, events or programs with themes of promoting a welcoming climate, ensuring curricular alignment, and cultural competency.

35. May the College organize a conference or program that includes DEI programs or activities on campus?

No. SB 17 prohibits the College from conducting programs or activities that promote certain legally protected individuals and groups, such as those of a specific race, color, ethnicity, or

sexual orientation. However, certain exemptions may apply, such as efforts for student recruitment, guest speakers, or performers on short-term engagement. There may also be an exception for certain events focused on faculty research or scholarship, given the stated exceptions in SB 17.

36. May the College host events or programs focused on specific groups, such as Black History Month, Juneteenth, Pride Month, Hispanic Heritage Month, Women’s History Month, and others?

Yes, subject to certain conditions. The mere name of an event or program does not indicate a violation of SB 17. However, SB 17 prohibits engagement in DEI activities such as promoting preferential consideration or providing special benefits to certain persons or groups. College events or programs that focus on specific groups should be open to everyone. All groups should be evaluated and provided with College support (e.g., funding and access to facilities) according to the same objective standards in determining whether or not the event or program can take place. Attendance at such events cannot be mandatory for students or employees.

37. May the College authorize the use of campus facilities for a third-party, identity-driven conference?

Yes. SB 17 does not prohibit the use of campus facilities by a third party based on the individual’s or entity’s beliefs. Outside groups should be provided with access to facilities in accordance with the College’s established criteria for facility use, including the standard reservation process and fee schedule. Denying facility access to a group based on their viewpoint or identity-driven purpose would violate state and federal law.

38. May College faculty and staff maintain memberships in outside organizations, such as professional organizations, that are identity-based and/or have a DEI-focused mission?

Yes. A College faculty or staff member may maintain membership with an outside organization that is identity-based, such as an association for women in healthcare professions, or has a DEI-focused mission, such as promoting diversity in a certain field of study. Maintaining such membership cannot be a condition for employment.

39. Does SB 17 prohibit employees of the College from participating in DEI events or activities on their own time?

SB 17 does not explicitly prohibit employees from participating in DEI events or activities on their own time. The restrictions primarily apply to activities conducted by the institution and its official functions. This would include both full-time and part-time employees if the activities are conducted under the auspices of the institution.

Websites and Social Media

40. May information about DEI be on college websites or social media pages?

No. DEI information should not be on college websites, including but not limited to the acronym, DEI, or the phrase “diversity, equity, and inclusion.” Such prohibited information would be that which promotes the differential treatment of or special benefits to certain individuals or groups.

41. May the College reference identity-driven organizations and initiatives on its website?

Yes, if the organization is committed to non-discrimination, is open to all individuals, and communicates an all-inclusive message appropriately. The name of the organization does not necessarily constitute a problem under SB 17. It is the activity of an organization that should be the focus when deciding whether to feature content on college websites.

Miscellaneous

42. Must a college discipline an employee or contractor for violations of SB 17?

Yes, a college may discipline, up to termination, an employee or contractor who violates SB 17.