

SENATE BILL REPORT

E2SSB 5227

As Amended by House, April 9, 2021

Title: An act relating to diversity, equity, inclusion, and antiracism training and assessments at institutions of higher education.

Brief Description: Concerning diversity, equity, inclusion, and antiracism training and assessments at institutions of higher education.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Randall, Nobles, Das, Lovelett, Wilson, C., Hasegawa, Hunt, Keiser, Kuderer, Lias, Nguyen and Stanford).

Brief History:

Committee Activity: Higher Education & Workforce Development: 1/26/21, 2/04/21 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/17/21, 2/19/21 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 3/3/21, 35-14.

Passed House: 4/9/21, 67-31.

Brief Summary of Engrossed Second Substitute Bill

- Establishes a professional development program on diversity, equity, inclusion, and antiracism for faculty and staff at public institutions of higher education to participate in beginning with the 2022-23 academic year.
- Requires all public institutions of higher education to conduct campus climate assessments on diversity, equity, and inclusion .
- Establishes a program on diversity, equity, inclusion and antiracism for students at public institutions of higher education to participate in annually beginning with the 2024-25 academic year.

SENATE COMMITTEE ON HIGHER EDUCATION & WORKFORCE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5227 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Randall, Chair; Nobles, Vice Chair; Lias.

Minority Report: Do not pass.

Signed by Senator Ericksen.

Minority Report: That it be referred without recommendation.

Signed by Senator Holy, Ranking Member.

Staff: Kellee Gunn (786-7429)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5227 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Gildon, Muzzall and Warnick.

Staff: Michele Alishahi (786-7433)

Background: Washington State Public Institutions of Higher Education. There are six public baccalaureate institutions and 34 community and technical colleges (CTCs) that make up the public institutions of higher education (IHEs) in Washington State.

Summary of Engrossed Second Substitute Bill: Professional Development for Faculty and Staff on Diversity, Equity, Inclusion, and Antiracism. A professional development program on diversity, equity, inclusion (DEI), and antiracism for faculty and staff is established at each public IHE.

Beginning with the 2022-23 academic year, each public IHE campus must develop a professional development program for faculty and staff with the purpose of eliminating structural racism against all races and promoting DEI while improving outcomes for

students from historically marginalized communities. The program must be developed in partnership with administration, faculty, staff, and student leadership. Efforts should be made to ensure the program is developed and delivered by individuals with innate and acquired experience in the field of DEI. The content framework of the professional development program must be posted on each institution's website.

The IHEs must also create an evaluation for professional development participants. The evaluation must include certain questions on the participant's satisfaction, the degree learning objectives were achieved, and how they will apply knowledge gained to their work.

All new faculty and staff must participate in the professional development program and submit an evaluation. Other faculty and staff may participate in the program as needed or required by their institution. Though only new employees are required to participate, each institution must develop a goal of at least 80 percent of all faculty and staff completing the professional development program over a two-year period. The progress in that goal must be included in a report to the legislature.

Beginning July 1, 2023, IHEs must share completed participant evaluations with either the State Board for Community and Technical Colleges (SBCTC) or the Council of Presidents (COP). The SBCTC and COP will receive completed evaluations and pertinent information on the program.

By December 31, 2024, and biennially thereafter, SBCTC and COP will each develop and submit a report on the professional development programs and submit the report to the higher education committees of the Legislature. The SBCTC and COP must post a list of model standards and promising practices for professional development on each of their public websites.

Campus Climate Assessments on Diversity, Equity, and Inclusion. Each public IHE must conduct a campus climate assessment to understand the current state of DEI in the learning, working, and living environments on campus for students, faculty, and staff. The campus climate assessment must be conducted, at minimum, every five years. The assessment must be designed for the unique and diverse community it is assessing. Additionally, every IHE must conduct annual listening and feedback sessions on DEI for the entire campus community during periods between climate assessments. Each assessment must be developed in partnership with the IHE's administration, faculty, staff, and student leadership. The results of the campus climate assessment shall be used to inform the professional development and student DEI programs.

Campus climate assessment and listening and feedback session findings must be reported to the SBCTC and COP annually beginning July 1, 2022. IHEs must publish the results of either the campus climate assessment or the listening and feedback sessions annually.

The SBCTC and COP must develop a report on campus climate assessments and annual

listening and feedback sessions and submit it to the higher education committees of the Legislature by December 31, 2024, and biennially thereafter. This report may be combined with the report on the professional development programs.

Student Training Program on DEI and Antiracism. Beginning in the 2024-25 academic year, the public IHEs must develop and establish a program on DEI and antiracism for all students using data and promising practices from the faculty professional development program and campus climate assessments. The purpose of the program is to eliminate structural racism against all races and promote DEI while improving outcomes for students from historically marginalized communities. Beginning with the 2025-26 academic year, program participation is only required for new students or those who have transferred to an IHE and have not yet participated in a required DEI and anti-racism program. Nonmatriculated students are not required to participate in the program. The content framework of the student program must be posted on each IHE's website.

The SBCTC and COP must evaluate the student DEI and antiracism programs beginning in 2024, post a list of model standards and promising practices for the student program on their public website, and report on findings biennially beginning in 2026.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Higher Education & Workforce Development): *The committee recommended a different version of the bill than what was heard.* PRO: Campuses should be safe for everyone. There is a lot of work and learning required to support and create an environment that is culturally safe. This bill will help support and retain diverse faculty, staff, and students. There is a stigma against people coming from prisons and having some formalized training for all faculty and staff as a part of traditional training will help faculty to understand how to interact with these students. More oversight is needed to craft policies and procedures that are responsive to traditional and nontraditional students. As faculty does not tend to be very diverse, leadership should include vice-presidents with expertise in DEI who may provide better leadership in this space.

I grew up in a diverse environment and did not know how to navigate white spaces. When I arrived at Western Washington University, I was overwhelmed with fear. This bill will make institutions of higher education more accessible to all people—not just white people. Faculty that is largely white have a hard time connecting with non-white students. Racism is a persistent barrier to success. Wrap-around services also must be addressed. This bill is

necessary to make students feel safe in the classrooms. People need to know about implicit bias and micro-aggressions, so they know these actions cause harm. This bill will help everyone interact with each other on campus and out in their communities.

DEI is important in higher education. The period between campus climate assessments should be extended. We need time for DEI campus climate assessments to be done correctly. Language regarding flexibility in the assessment process would be appreciated. TESC is currently offering DEI professional development opportunities that focus on historically marginalized communities. Having the flexibility to design these programs is something we care about. We are confident that the institutions can do this work without the need of including the WSAC. Individual colleges should have the flexibility to develop, deliver, and assess their equity programming. The SBCTC should have oversight on the CTCs' work. This bill is very prescriptive on how this work should take place. There should be more flexibility. DEI programming shouldn't be developed by one employee group. Culturally relevant pedagogy, student support services, affinity groups, and gathering disaggregated data has helped TCC in supporting all students. Clark College has done some work to ensure faculty, staff, and students are competent in anti-racism through a ten-month equity program. Lake Washington Institute of Technology has embedded DEI as a requirement for graduation for every student.

Let us grant the diversity officers the flexibility to do their work and have them tailor the programs to their campus. This is a unique bill, as it requires all institutions to provide this professional development. It would be useful for each institution to analyze their own program. We believe the deadline of having this implemented in 2022 is doable if provided funding. Anti-racist work is important for a democratic society. Inclusive work is not symmetrical. Equal does not mean inclusive. Students are the experts here and including their voices in this anti-racism work is important for success.

CON: Many Asian-Americans are very worried that they may be negatively affected by this bill. From the Chinese Exclusion Act to the internment of Japanese-Americans, there have been policies where Asian Americans have historically been negatively affected. There should be an amendment to call out and combat racism against Asian Americans. Language should be included to ensure that Asian Americans are not negatively affected by this bill. This bill will likely violate the equal protection clause which prohibits the state from granting preferential treatment to a certain group over another. If enacted, this bill will promote fear and lead to more conflict.

Persons Testifying (Higher Education & Workforce Development): PRO: Senator Emily Randall, Prime Sponsor; Lizbeth Rivera, Communities for Our Colleges; Isaac Tchao, Communities for Our Colleges; Ha Nguyen, Washington State Board for Community and Technical Colleges; Dr. Ivan Harrell, Tacoma Community College; Dr. Sayumi Irey, South Seattle College; Rashida Willard, Clark College; Robert Britten, Lake Washington Institute of Technology; Samantha Fakharzadeh, Washington Students; Jacob Vigdor, University of Washington; Ruben Flores, Council of Presidents; Jeremy Mohn, The

Evergreen State College; Lucinda Young, Washington Education Association; Jeanette James, University of Washington; Valeria Valdovinos, student; Samantha Fakharzadeh, student; Christina Madonia, student; Jude Ahmed, Associated Students of Western Washington University; Kristopher Aguayo Barragan, Western Washington University; Dr. Sultana Shabazz, Tacoma Community College.

CON: Kan Qiu, citizen; Linda Yang, citizen; Si Li, citizen; Liv Finne, Washington Policy Center.

Persons Signed In To Testify But Not Testifying (Higher Education & Workforce Development): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The State Board is uniquely set up to help colleges with their DEI training. SBCTC should provide system-wide oversight of this effort and not WSAC. I also recommend allowing colleges to select their own assessment tools instead of requiring a standardized assessment tool across the board. It is important to empower local colleges to determine what works best in their local communities. Some students are enrolled in occasional courses for different reasons, for example, a retiree taking an art class. We would like to focus DEI training on degree-seeking students primarily. We need to prioritize investment in racial equity guided by students in higher education now. I would not be here if students felt their needs were being met by current diversity efforts in place.

OTHER: Ongoing work is needed to combat systematic racism. Students, administrators, faculty, and staff will all have a key role in supporting the bill. While we are aligned with the goals of the bill, we are happy to help the committee reduce the fiscal impact of the current proposal to avoid an unfunded mandate given the financial situations institutions are currently facing. We have new language that allows for efficiencies, innovation, flexibility in implementation, and streamlines reporting requirements, which results in a reduced fiscal impact while maintaining the intent of the bill.

Persons Testifying (Ways & Means): PRO: Ha Nguyen, Washington State Board for Community & Technical Colleges; Doug Mah, Association of College Trustees; Dr. Rosie Rimando-Chareunsap, South Seattle College; Jude Ahmed, Washington Student Association.

OTHER: Ruben Flores, Council of Presidents.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Requires 35 percent of administrators and tenured faculty to complete the DEI and antiracism professional development program every two years, regardless of full-time

status, beginning in the 2024-25 academic year.

- Clarifies the intent of the professional development program is for faculty and staff is to improve academic, social, and health and wellness outcomes for students.
- Allows part-time faculty to provide proof of completion to another higher education employer for credit.
- Establishes that campus climate assessments may include questions evaluating the prevalence of discrimination, sexual assault, and harassment, and retaliation on and off campus as well as evaluating students' knowledge of campus policies and procedures regarding sex discrimination.
- Allows the SBCTC to develop a model campus climate assessment that colleges can use or modify.
- Requires institutions to compensate students for participation in the annual listening and feedback sessions related to the campus climate assessments, to the extent possible.
- Allows students to opt out of the student DEI and antiracism program if they can self-attest to participating in a similar program at an institution of higher education within the previous five years.
- Clarifies that the students required to participate in the DEI and antiracism program are degree-seeking students.
- Requires the DEI and antiracism trainings for faculty, staff, and students to include elements that focus on commonalities and humanity.
- Modifies references to the Council of Presidents to an organization representing the presidents at the four-year institutions of higher education.
- Moves all reporting requirements to a new, stand alone section.
- Makes technical changes.