

Proposed Utah Bill Would Have Extended Restrictions on DEI to Private Employers' Training Programs

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States across the United States have been taking up or passing laws to prohibit diversity, equity, and inclusion (DEI) initiatives and programming in public schools, colleges, universities, and other institutions, but a bill recently considered by Utah lawmakers raised concerns for private employers as it would have extended such restrictions to cover many workplace DEI-related training programs.

Quick Hits

- Utah's HB 111 would have prohibited private employers from requiring employees and prospective employees to sign any form or written document or attestation related to certain statements surrounding race, color, sex, or national origin.
- The bill came on the heels of enactment of HB 261, which will prohibit, among other things, higher education institutions from requiring employees or prospective employees to attend "prohibited trainings."

Introduced in January 2024, Utah's [House Bill \(HB\) 111](#), titled, "Employment Training Requirement Limitations," would have prohibited employers from requiring employees and job applicants to sign written documents or attestations professing adherence to or belief in certain DEI-related concepts, some of which are sometimes addressed in typical workplace training programs.

HB 111 gained initial traction in the state legislature and passed the Utah House of Representatives in February 2024 before running into a roadblock in the Utah Senate. While HB 111 now appears to be dead, the bill serves as an example of the type of bill that could be considered by states in 2024 amid increased scrutiny of DEI programs across the country following the Supreme Court of the United States' [June 2023 decision](#) striking down race-conscious admissions policies in higher education.

State DEI Laws

Utah became the latest state to enact a DEI law when on January 30, 2024, Governor Spencer Cox signed into law HB 261, which will prohibit certain DEI “policies, procedures, practices, programs, or initiatives” in government offices and in the Utah public education system.

At least nine states—Florida, Idaho, Kansas, North Carolina, North Dakota, South Dakota, Tennessee, Texas, and Utah—have passed laws restricting DEI programs. These laws, including Utah’s HB 261, mainly restrict DEI in public education or programs involving employees of public institutions or universities. For instance, a [new law in Texas](#), which took effect on January 1, 2024, prohibits public institutions of higher education from establishing or maintaining DEI offices and requires such institutions to adopt new policies to ensure compliance by their employees.

However, Utah’s HB 111 was different, and of particular concern for private employers, because it would have extended DEI restrictions to the private employment context and would have restricted many workplace training programs that touch on DEI-related topics, such as unconscious bias training programs.

Utah’s HB 111

Under HB 111, employers would have been prohibited from requiring, as a term or condition of employment (including hiring, advancement, promotion or demotion), employees or applicants to sign documents or attestations professing belief in specific concepts related to race and other protected characteristics.

The bill would have amended the state law companion to Title VII of the Civil Rights Act of 1964, which prohibits employers from discriminating against individuals based on their protected characteristics, and any employment requirement that an individual sign a document or attestation professing a belief in the prohibited concepts would have “constitute[d] discrimination based on race, color, sex, or national origin.”

Specifically, HB 111 would have prohibited any attestation requiring employees to profess any of the following beliefs:

1. “that members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin”;
2. “that an individual, by virtue of the individual’s race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously”;
3. “that an individual’s moral character or status as either privileged or oppressed is necessarily determined by the individual’s race, color, sex, or national origin”;
4. “that members of one race, color, sex, or national origin cannot or should not attempt to treat others without respect to race, color, sex, or national origin”;
5. “that an individual, by virtue of the individual’s race, color, sex, or national origin, bears responsibility for, or should be subject to discrimination or adverse treatment because of actions that other members of the same race, color, sex, or national origin committed in the past”;
6. “that an individual, by virtue of the individual’s race, color, sex, or national origin, should be subject to discrimination or adverse treatment to achieve diversity, equity, or inclusion”; or
7. “that virtues including merit, excellence, hard work, fairness, neutrality, and objectivity, are racist or sexist, or that members of a particular race, color, sex, or national origin created these virtues to oppress members of another race, color, sex, or national origin.”

HB 111 would have clarified that training in the workforce could occur on employment-related issues concerning race, color, sex, or national origin, as long as the training did not include a document or attestation to be signed by the employee signifying that the employee professed certain beliefs.

Key Takeaways

Given the proliferation of laws and proposed legislation impacting DEI initiatives and programming, such as Utah's HB 111 employers (including, but not limited to, those with DEI initiatives or training touching on the subjects addressed in HB 111) may wish to carefully track legislative developments that could impact their programs and lawful approaches to training and related activities.

Employers may further want to review their workplace policies and training programs with respect to existing obligations under federal, state, and local laws, such as the antidiscrimination requirements of the Civil Rights Act of 1964, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and other civil rights statutes.

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