

## 2024 LEGISLATIVE LANDSCAPE: Anti-DEI Legislation and Educational “Gag Orders” in the United States

Anti-DEI legislation has been proposed recently in half of US states.

Since 2023, 73 bills in 26 states and the US Congress have been introduced, and 8 have become law. This session, 19 states and the US Congress have anti-diversity, equity, and inclusion (DEI) bills pending.

Proposed legislation would prohibit colleges and universities from having DEI offices and staff, ban mandatory DEI training, forbid diversity statements at colleges and universities, and outlaw identity-based preferences for hiring and admissions.

Educational “gag orders” have been proposed recently in nearly all US states.

Since 2021, 353 bills in 45 US states have been introduced. Thirty-one of those bills have passed, with 10 explicitly targeting higher education. Twenty state legislatures have educational “gag orders” pending this session. Pending bills in 13 states explicitly target higher education.

With a variety of language, these educational “gag orders” restrict instruction on concepts that have been characterized as divisive, including race, sex, sexual orientation, religion, political affiliation, social class, national origin, past racial injustice, and critical race theory.

The American public does not support government restrictions on educational discussion and instruction. In contrast, most Americans do support DEI initiatives.

Public opinion research by the American Council on Education has “identified strong opposition to federal and state policymakers mandating what can or cannot be taught or discussed on college campuses and imposing restrictions or conditions on campus speech or curricula.”

In general, the public believes that campuses should decide what is taught or discussed at colleges and universities: 29% of Americans say college leadership should shape the higher education curriculum, 19% say faculty, and only 17% say lawmakers.

Most American adults believe that it is good for college students to be exposed to multiple points of view (86%), and that discussion of controversial topics fosters critical thinking, an important outcome of liberal education (83%).

There is widespread agreement on this topic even amid political polarization: more than three-quarters of Americans—including 73% of Republicans, 88% of Democrats, and 71% of Independents—agree that college can be valuable for a healthy democracy because a college education exposes students to diverse viewpoints.

While educational “gag orders” often target instruction on past racial injustice, more than three-quarters of Americans say it’s acceptable to teach about the harm some people have done to others, even if that subject matter causes learners discomfort.

In 2023, three separate public opinion polls showed consistent support for DEI. More than half of Americans (56%) support DEI initiatives at colleges and universities, and 44% support the government mandating DEI initiatives at public universities.

The American Council on Education and PEN America have published useful resources to help campus leaders make the case for academic freedom and institutional autonomy. See their report for communication tools, information about divisive concepts laws that restrict higher education, and an overview for campus stakeholders.