



Wyoming House Bill 147

The Impact on K-12

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**Presenters are not giving legal advice.
This is a simple overview of the law and related
federal activity.**

Please consult your own attorney for legal advice.



HB 147: What is it and how did it come to be?

The Bill

[House Bill 147](#) was passed during the 2025 General Session of the Wyoming Legislature and signed into law by Governor Gordon on March 4, 2025. The bill prohibits what is commonly referred to as “DEI” at governmental entities in Wyoming such as any state agency, the University of Wyoming, school districts, and local governments.

The topic was big both in national news and state politics, with recent emphasis on the University of Wyoming’s Office of DEI which was [closed by the Board of Trustees in May of 2024](#).

-Idaho, [which passed](#) the first “divisive concepts” legislation in 2021, made it illegal for schools to require students to affirm the inherent superiority or inferiority of one race or sex over another. [Twenty states](#) have passed similar laws, [with varying definitions and enforcement mechanisms](#).



W.S. 9-28-101-Definitions

(a) As used in this section:

(i) "Diversity, equity or inclusion" means any program, activity or policy that promotes differential or preferential treatment of individuals or classifies individuals on the basis of race, color, religion, sex, ethnicity or national origin;

(ii) "Governmental entity" means the state, any department thereof, the University of Wyoming and any county, city, town, school district, community college district, other political subdivision and other public corporation of the state;



Definitions Continued

(iii) "Institutional discrimination" means any of the following concepts: (A) That any race, color, religion, sex, ethnicity or national origin is inherently superior or inferior;

(B) That a person should be discriminated against or adversely treated because of the person's race, color, religion, sex, ethnicity or national origin;

(C) That the moral character of a person is determined by the person's race, color, religion, sex, ethnicity or national origin;

(D) That because of a person's race, color, religion, sex, ethnicity or national origin the person is inherently racist, sexist or oppressive, whether consciously or subconsciously;

(E) That by virtue of a person's race, color, religion, sex, ethnicity or national origin, the person is inherently responsible for actions committed in the past by other members of the same race, color, religion, sex, ethnicity or national origin;

(F) That fault, blame or bias should be assigned to members of a race, color, religion, sex, ethnicity or national origin, on the basis of race, color, religion, sex, ethnicity or national origin;

(G) That any person should accept, acknowledge, affirm or assent to a sense of guilt, complicity or a need to apologize on the basis of the person's race, color, religion, sex, ethnicity or national origin;

(H) That meritocracy or certain traits including a hard work ethic are racist or sexist.



No Governmental Entity Shall

(i) Engage in any diversity, equity or inclusion program, activity or policy;

(ii) Engage in institutional discrimination;

(iii) Require instruction promoting institutional discrimination;

(iv) Require any student, employee or contractor to attend or participate in any diversity, equity or inclusion program or training or any institutional discrimination program or training.



Tribal Exclusion

(c) As a political class, classification or identity, federally recognized Indian tribes and programs, trainings, degrees, classes or endowments related to federally recognized Indian tribes or Indian history, culture, language and traditions, are not diversity, equity and inclusion as defined by this section. Nothing in this section shall be construed to apply to federally recognized Indian tribes.

For purposes of this section: (i) "Federally recognized Indian tribe" means a tribal government and its citizens who have an acknowledged government-to-government relationship with the United States of America;

(ii) Federally recognized Indian tribes and their citizens shall be considered a political class, classification or identity. Tribes and their members shall not be considered a race or a racial classification.



Recent SCOTUS Cases - *Fair Admissions v. Harvard*

-Wyoming courts have not weighed in on this law yet. However, there is activity at the federal level on the topic of DEI with the Trump Administration and the Supreme Court that can offer insight into the Wyoming law. Also, with many government entities in Wyoming accepting federal funding, federal jurisprudence and laws are important. State courts will look to the federal courts for guidance.

Students for Fair Admissions v. Harvard (2023)

Facts: Students for Fair Admissions (SFFA) sued Harvard over its admissions process, alleging that it violated Title VI of the Civil Rights Act by discriminating against Asian American and white applicants in favor of what was referred to as "underrepresented" minority applicants. Harvard admitted it used race as one of many factors in admissions but that it was adhering to previous Supreme Court cases on the topic.

-Harvard one at the trial court level and in the First Circuit Court of Appeal. SFFA appealed to the Supreme Court.



Fair Admissions v. Harvard Continued

-In a 6-3 majority opinion, the SCOTUS ruled that the Harvard admissions program violated the Equal Protection Clause of the 14th Amendment. In short, Harvard (and the University of North Carolina who was joined into the case) could not demonstrate compelling interests in a measurable way for their policy, they failed to avoid racial stereotypes, and did not offer a logical endpoint for when race-based admissions would cease.

-It is important to mention that the Court noted nothing prohibits universities from considering an applicant's discussion of how race affected the applicant's life, so long as that discussion is concretely tied to a quality of character or unique ability that the particular applicant can contribute to the university.

-Video summarizing the case that we'll watch:

<https://www.youtube.com/watch?v=UdlnaaMV5zE>

Source: <https://www.oyez.org/cases/2022/20-1199>



Ames v Ohio Department of Youth Services (2025)

Facts: A heterosexual woman, Marlean Ames, worked for the Department, was promoted, and given a good performance review. Then after over ten years of service she was switched to a new supervisor who was gay in 2017. Ames applied for a higher level position in 2019 but was not selected. Then her supervisor told her to consider retirement. After that, she was demoted and given a pay cut.

-After the demotion, a 25 year old gay male was promoted to her previous position. Then later that year, a gay woman was promoted to the higher level position she applied for but wasn't selected for. After this, Ames filed a discrimination lawsuit against the Department under Title VII of the Civil Rights Act.

-She lost her case at the district court and 6th Circuit Court of Appeals. She then appealed to the SCOTUS.

Hear from Marlean's story:

<https://www.youtube.com/watch?v=sEXE4n5UwVU>



Ames v Ohio Continued

-The SCOTUS ruled unanimously in favor of Ames. Employers violate Title VII of the Civil Rights Act when they intentionally discriminate against any individual—regardless of that person’s membership in a majority or minority group—on the basis of protected characteristics such as race, color, religion, sex, or national origin. The statute does not impose a higher evidentiary burden on plaintiffs who belong to majority groups. Justice Ketanji Brown Jackson authored the unanimous opinion of the Court.

-Title VII’s text prohibits discrimination against an individual before a protected characteristic such as sex and does not authorize a court to add different standards for a plaintiff based on whether they are a member of a majority or minority group. The 6th Circuit’s reliance on the “background circumstances” rule, which required Ames who is in a majority group to show evidence that the employer is the unusual kind that discriminates against the majority, was an additional burden not contemplated in Title VII and therefore invalid in the eyes of the SCOTUS.

-To satisfy the background circumstances test, plaintiffs could rely on various forms of evidence, including so-called “me too” evidence, direct evidence of bias against majority-group members, patterns of preferential treatment toward minority employees, or internal policies suggesting a preference for diversity over merit. Courts did not require proof by a preponderance of the evidence at this stage; rather, the burden was one of production, requiring enough evidence to raise a reasonable inference that the employer was the unusual employer that discriminated against majority-group members.

Source: <https://www.oyez.org/cases/2024/23-1039>; <https://www.akerman.com/en/perspectives/hrdef-supreme-court-eliminates-background-circumstances-test-in-reverse-discrimination-cases-what-employers-need-to-know.html>



President Trump Executive Orders

President Trump has issued several executive orders (EO) on the topic of DEI:

[EO 14151](#), "Ending Radical and Wasteful Government DEI Programs and Preferencing," directs federal government agencies to end all "illegal" DEI policies and preferences in the federal government.

[EO 14168](#), "Defending Women From Gender Ideology Extremism and Restoring Biological Trust to the Federal Government," directs federal agencies to cease promoting or funding "gender ideology."

[EO 14173](#), "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," seeks to encourage the private sector to end DEI preferences.

Spectrum News: <https://www.youtube.com/watch?v=bcax-tZTTEE>



National Institutes of Health v. American Public Health Association (2025)

Following the trio of EOs, the NIH had issued guidance stating that it would no longer fund research related to DEI, gender identity, or COVID-19, and would stop awarding grants based on race. The NIH later terminated research grants en masse that the agency believed were inconsistent with the Trump administration's anti-DEI policies.

A group of researchers, doctors, and unions that rely on NIH funding, joined by a coalition of sixteen states on behalf of their respective state universities, filed lawsuits alleging that the NIH had implemented the EOs in violation of the APA and the U.S. Constitution.

On July 2, 2025, the U.S. District Court for the District of Massachusetts vacated both the guidance documents and the grant termination decisions, ruling that the NIH's termination of the grants had been "arbitrary and capricious" and a violation of the APA. On July 18, 2025, the U.S. Court of Appeals for the First Circuit denied the government's request for a stay, finding that the challengers faced more potential harm from the grant terminations than the government would suffer in the absence of a stay.

Supreme Court Grants Partial Stay

While the NIH's guidance documents will remain vacated, the Supreme Court's ruling paves the way for the NIH to terminate the research grants that it determines are inconsistent with the Trump administration's policies on DEI and gender identity. As Justice Barrett wrote in a partial concurrence, the district court "likely lacked jurisdiction to hear challenges to the grant terminations, which belong in the Court of Federal Claims (CFC)."

Source: <https://ogletree.com/insights-resources/blog-posts/supreme-court-paves-way-for-terminations-of-nih-grants-based-on-dei/>



Questions?

Summary:

- Ascertain the facts and gather evidence.
- Address with parties involved.
- If unable to resolve, address with administrator/local school board trustees.
- If still unable to resolve, consult a private attorney.

Thank you.

