



May 11, 2023

To Honorable Representatives: John Kuempel (Chair), John Bucy III, DeWayne Burns, Dustin Burrows, Travis Clardy, Sheryl Cole, Mary González, Donna Howard, Suleman Lalani, Dennis Paul, and John Raney:

The Texas Association of College Teachers (TACT) and the Texas Conference of the American Association of University Professors (AAUP) remain opposed to Texas SB17 and urge the House Higher Education Committee to not pass it out of committee. Although we welcome many of the changes in the committee substitute for SB17 [1], we believe that the bill should not pass. *Diversity, Equity, and Inclusion (DEI) programs, initiatives, and committees are vital to the creation and maintenance of a safe and welcoming place to learn and work at public colleges and universities in Texas for all students, staff, and faculty.*

We are encouraged that language has been included in the committee substitute for SB17 presented on May 8, 2023, that would exempt federal grants and contracts and accreditation standards from its prohibitions on DEI offices, officers, programs and practices. [1] Even so, we remain concerned that the bill's current language will have a chilling effect by discouraging accomplished faculty and promising students from attending or continuing in public higher education institutions to the detriment of the people and economy of the great State of Texas. And for those who continue to work and study in Texas, our public higher education institutions will lack the ability to provide inclusive and hospitable working and learning environments.

We provide several reasons for our opposition to SB17 and its committee substitute below:

1. Expanded DEI efforts will be necessary for higher education institutions to compete for the students needed to achieve the Texas 60x30 goals. These plans call for 60% of those 25-34 years of age to earn a post-secondary degree or certificate by 2030:

As this plan moves forward, the 25- to 34-year-old population in Texas will be increasingly Hispanic. Hispanics, along with African Americans, have traditionally been underrepresented in the state's higher education institutions but are critical to the success of the 60x30TX Plan. It includes key targets for these and other groups that will be important for achieving the goals in this plan. [2]

The U.S. Census showed that of the 4 million people added to the Texas population from 2010 to 2020, 95% are people of color, with Hispanic Texans being responsible for half of that increase. [3] Additionally, the South Asian population of Texas has grown significantly in recent decades. To reach the Texas 60x30 goals, public colleges and universities must be more successful in recruiting and



retaining students across these and other demographics. Both recruiting and retention require Texas public colleges and universities to become more welcoming, accessible, and accommodating institutions. This requires expanding DEI programs, not hobbling them.

2. DEI does not divide campus communities; rather, DEI programs and policies help to facilitate inclusive and supportive learning environments for all. This is important for the maintenance of everyone's academic freedom, vital to any free and open society. Research shows that students with a high sense of inclusion and belonging have increased academic motivation, which is correlated to student achievement [4]. There is no evidence that DEI programs in any way inhibit the academic success of those from historically advantaged groups. DEI efforts support the existing strategic plans for growth and excellence at public colleges and universities.
3. "Diversity statements" are not loyalty oaths or political litmus tests. Some academic departments ask applicants for diversity statements to allow a job or promotion candidate to discuss the ways that they create inclusive labs, classrooms, research teams, and learning spaces for diverse students and colleagues. One thing diversity statements do not do is require a candidate to express agreement with a specific political position or opinion. Far from being an agent of limiting academic freedom, these statements can help determine how a candidate works to ensure critical inquiry and intellectual exploration for those with diverse viewpoints and experiences.
4. Diverse workplaces are innovative workplaces. The committee substitute for SB17 [1] repeatedly prohibits "preferential treatment" with regard to race, sex, color, or ethnicity. DEI programs work within the law and thus do not give any candidates preferential treatment. Given this, the bill's language can be interpreted to mean that any efforts to recruit a diverse pool of job applicants will be banned under SB17. This will put Texas institutions at a disadvantage. As has been anecdotally documented by numerous department chairs, identifying a diverse pool of job applicants for higher education positions in Texas has already proven challenging during this hiring season due to the chilling effect that proposed legislation has had on recruiting prospective candidates. This is bad for Texas because research shows that diversity and innovation are directly correlated [5].
5. Without DEI best practices explicitly mentioned or employed in hiring, preferential treatment will be given to those from historically advantaged backgrounds which may open universities to expensive and lengthy lawsuits under the provisions of SB17 or its committee substitute. This is because active recruiting for garnering a diverse applicant pool requires awareness and understanding of DEI. This is especially important because bias is a normal human trait, thereby inherently present in faculty and administrators involved in faculty hiring decision making. Understanding how one's decisions are impacted by one's biases and learning how to mitigate its effect in decision making is an important practice that needs to be retained. Given that one stated aim of SB17 is to ban preferential treatment, the language will have the unintended effect of codifying it.



6. There would be a substantial loss in external funding for research breakthroughs and workforce development.
  - a. Texas will lose competitiveness for federal grants and contracts. Increasingly, grant opportunities from the major federal granting agencies in the US require DEI programs and infrastructure. The goal is to keep America's technological and engineering advantage by including every talented person in the STEM workforce. These efforts include all of the major agencies supporting research in STEM fields (including the National Science Foundation, National Institutes of Health, Department of Energy, and Department of Defense) and other fields, requiring evidence that grant monies will be used in both innovative research and workforce development and diversification, including DEI [7][9]. Furthermore, the expectation from federal funding agencies is that initiatives enabled by the funded grants are institutionalized and continued beyond the lifetime of the project, which would not be allowed under SB 17 or its committee substitute.
  - b. Unintended bottlenecks and exclusion of grants from foundations and companies. The committee substitute for SB17 [1] appears to exempt federal grants and contracts from the bill's prohibitions. However, the committee substitute for SB17 will create an unnecessary burden and bureaucracy at each institution and system in which new DEI grant offices need to be created and programs approved for exemptions, and new personnel hired and trained for this exclusive purpose to avoid the inevitable bottlenecks from the large volume of grant applications submitted, esp. around federal grant program deadlines throughout the year that see very high numbers of grants filed simultaneously. Finally, as written, the committee substitute for SB 17 does not provide exemptions for private foundations and companies that require a DEI plan, which would exclude grants from these entities altogether.
  - c. There would be a substantial loss of income and support for training the next generation of student researchers. Research expenditures at public universities and health-related institutions reached \$5.44 billion in FY 2020 [6]. The version of SB17 that passed the Senate would disallow this \$1-2B/year federal funding to Texas public colleges and universities [7]. This loss of funding would mean a loss of a future workforce of 10,000-20,000 advanced degree STEM and non-STEM enrolled each year. Without strong campus-wide DEI offices and programs and guarantees that the institution is committed to continuing and institutionalizing activities initiated in the grant, the likelihood of funding will drop significantly thereby endangering the viability of any research program. Proposals from public institutions in Texas under SB 17 or its committee substitute would not be competitive against proposals from top research universities such as MIT, Stanford, University of California Berkeley, University of Illinois, and the University of Michigan with the full institutional support for DEI that funders expect to see.



7. Texas public institutions would likely lose access to Title V and Title VI grants. 76 public colleges and universities in Texas have been designated as Hispanic Serving Institutions [8], which enables them to apply for Title V federal grants. To receive such grants, the institution has to show that it has implemented an appropriate strategy for “servingness” in relation to Hispanic students. Under SB17 or its committee substitute, “servingness” programming for Hispanic students would be illegal, and Texas institutions would lose this designation and access to millions of dollars in federal grants. Moreover, Title VI federal grants are awarded to international area studies and world languages programs. The US Department of Education considers an institution’s commitment to DEI as an important factor in assessing Title VI grant applications. Nationally, \$60M in Title VI grants are awarded each year.
8. The threat of termination for engaging in DEI activities is draconian. Untold numbers of faculty at Texas institutions incorporate DEI into their recruitment, teaching, research, and service as a matter of best practice. Under SB17 or its committee substitute, it is unclear whether an employee could be terminated for recruiting a prospective candidate who happened to come from an underrepresented group. The threat of termination would create a chilling effect and inhibit effective recruitment of top talent to Texas institutions.
9. The bill creates an unnecessary and unrealistic bureaucracy for governing boards. Section 2.f of the committee substitute requires governing boards to report to the Legislature on their compliance with SB17 every other year. Faculty hiring and student programming largely happen at the level of programs, centers, and departments in compliance with existing laws and policies. Governing boards’ effective reporting on each institution’s programs, centers, and departments’ compliance with SB17 would require an expansive bureaucracy at every level of the institution.
10. DEI works to create student success. The bottom line is that, though there is certainly room for improvement in higher education DEI programs, and they would be better able to create hospitable learning environments with more resources, by and large they achieve their stated goals. The US Department of Education reports that students report less bias and discrimination at institutions that have strong commitments to DEI and that students experience less discrimination at more diverse institutions than at less diverse ones. Institutions with diverse faculties also can increase students’ sense of academic validation. This research also shows that campus spaces oriented toward students’ unique cultural backgrounds can reduce feelings of isolation and alienation for students of color. The US Department of Education puts it simply, “Diversity in higher education is critically important to ensuring student success.” [10]

In conclusion, DEI programs are integral to healthy and successful institutions of higher education in Texas and around the country. These programs and offices are woven into the fabric of our institutions, and they function to protect the academic freedom of those with diverse identities and diverse viewpoints. These programs ensure that faculty have access to significant federal and private grant dollars. Most importantly, they are proven to lead to student success. We reiterate support for Diversity,



Equity, and Inclusion programs, initiatives, offices, and officers as vital to the creation and maintenance of a welcoming atmosphere at Texas colleges and universities for all students, staff, and faculty.

Thank you for your consideration, and for your commitment to quality higher education in the State of Texas.

Respectfully.

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## References

- [1] House Higher Education Committee, [Committee Substitute for SB17](#), May 8, 2023.
- [2] [Texas Higher Education Strategic Plan 2015-2030 Strategic Plan: 60x30TX](#)
- [3] [A. Ura, J. Kao, C. Astudillo](#) and [C. Essig](#), “[People of color make up 95% of Texas’ population growth, and cities and suburbs are booming, 2020 census shows](#)”, *The Texas Tribune*, Aug. 12, 2021.
- [4] M. L. Peddler, R. Willis, and J. E. Nieuwoudt, “[A Sense of Belonging at University: Student Retention, Motivation and Enjoyment](#)”, *Journal of Further and Higher Education*, vol. 46, no. 3, pp. 397-408, 2022.
- [5] [S. A. Hewlett, M. Marshall](#), and [L. Sherbin](#), “[How Diversity Can Drive Innovation](#)”, *Harvard Business Review*, Dec. 2013.
- [6] 60x30TX report “[Research Funding in Texas Overview](#)” for FY2022.
- [7] B. Evans, A. Gore, B. Korgel, D. Marculescu, and A. Valenzuela, “[How Senate Bill 17 and Banning DEI Jeopardizes University Research Funding: A STEM Perspective](#)”, Apr. 15, 2023.
- [8] Excelencia in Education, “[A Texas Briefing on 25 Years of Hispanic-Serving Institutions](#)”, 2021. Identifies 74 public HSIs in Texas. In addition, Texas A&M University [\[Ref\]](#) and UT Austin [\[Ref\]](#) have become HSIs.
- [9] Harvard University, “[Diversity Funding Opportunities](#)”, accessed May 11, 2023.
- [10] US Department of Education, “[Advancing Diversity and Inclusion in Higher Education](#)”, Nov. 2016.