



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5669/1
ARG:skw

2023 SENATE BILL 988

February 1, 2024 - Introduced by Senator NASS, cosponsored by Representatives MOSES, MURPHY, NEDWESKI, CALLAHAN, O'CONNOR, BRANDTJEN, DITTRICH, GREEN and MAXEY. Referred to Committee on Universities and Revenue.

1 **AN ACT to create** 36.13, 38.235 and 801.50 (5d) of the statutes; **relating to:**
2 prohibiting University of Wisconsin System institutions and technical colleges
3 from using loyalty pledges and requiring them to make certain information
4 publicly available.

Analysis by the Legislative Reference Bureau

This bill prohibits University of Wisconsin System institutions and technical colleges from conditioning student admission, conditioning the recognition or funding of student organizations, or conditioning faculty hiring, reappointment, annual review, performance review, or promotion on a person's or student organization's pledging allegiance to or making a statement of personal support for or opposition to any political ideology or movement, including a pledge or statement regarding diversity, equity, inclusion, or related topics (loyalty pledge). This prohibition also applies to an institutional review board associated with the UW System institution or technical college, which may not condition research approval for a researcher on a loyalty pledge. The bill also prohibits each UW System institution and technical college from requesting or requiring such a loyalty pledge or, if the institution or technical college receives such a loyalty pledge, from taking action on the basis of the viewpoints expressed in it. The bill provides a private right of action allowing an applicant for admission, student, student organization, faculty member, or prospective faculty member to bring a civil action for a violation against the UW System institution or technical college or its employees whose actions caused or contributed to the violation. The plaintiff may seek injunctive relief and damages

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in court and, if successful, is entitled to reasonable attorney fees. The bill specifies certain examples of injunctive relief available to plaintiffs, including admission as a student, rehiring, or promotion to tenure. An employee of a UW System institution or technical college whose actions caused a violation must be placed on unpaid leave for the following academic year, except the employee must be terminated if the employee caused a prior violation within the preceding five years. The bill also allows the attorney general to file an injunction action against a violating UW System institution or technical college.

The bill requires each UW System institution and technical college to post and make publicly available on its website all training materials used for students, faculty, and staff, and all policies and guidance, on all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.13 of the statutes is created to read:

2 **36.13 Loyalty pledges. (1)** (a) Subject to par. (c), neither an institution nor
3 an institutional review board associated with an institution may do any of the
4 following:

5 1. Condition admission of or financial aid to an applicant on the applicant's
6 pledging allegiance to or making a statement of personal support for or opposition
7 to any political ideology or movement, including a pledge or statement regarding
8 diversity, equity, inclusion, or related topics.

9 2. Condition the recognition or funding of any student organization on the
10 organization or a student pledging allegiance to or making a statement of personal
11 support for or opposition to any political ideology or movement, including a pledge
12 or statement regarding diversity, equity, inclusion, or related topics.

13 3. Condition the hiring, reappointment, annual review, performance review, or
14 promotion of a faculty member or prospective faculty member, or the research
15 approval for a researcher, on the person's pledging allegiance to or making a

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1 statement of personal support for or opposition to any political ideology or movement,
2 including a pledge or statement regarding diversity, equity, inclusion, or related
3 topics.

4 4. Request or require a pledge or statement described in subds. 1. to 3. from an
5 applicant for admission, a student or student organization, or a faculty member or
6 prospective faculty member.

7 (b) Subject to par. (c), if an institution receives a pledge or statement from an
8 applicant for admission, a student or student organization, or a faculty member or
9 prospective faculty member describing a commitment to any political ideology or
10 movement, including a pledge or statement regarding diversity, equity, inclusion, or
11 related topics, the institution may not grant admission of or financial aid to the
12 applicant, recognize or provide funding to or withhold recognition or funding from
13 the student organization, or hire, reappoint, or promote the faculty member or
14 prospective faculty member, on the basis of the viewpoints expressed in the pledge
15 or statement.

16 (c) This subsection shall not be construed to do any of the following:

17 1. Prohibit an institution from requiring any person to comply with federal or
18 state law, including antidiscrimination laws, or from taking action against such a
19 person for violating federal or state law.

20 2. Limit or restrict the academic freedom of faculty or prevent faculty members
21 from teaching, researching, or writing publications about diversity, equity, inclusion,
22 or related topics.

23 3. Prohibit an institution from considering, in good faith, a faculty member's
24 scholarship, teaching, or subject-matter expertise in the faculty member's academic
25 field.

SENATE BILL 988**SECTION 1**

1 **(2)** Each institution shall post and make publicly available on its website all
2 training materials used for students, faculty, and staff on all matters of
3 nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias and all
4 policies and guidance of the board and the institution on these matters.

5 **(3)** (a) An applicant for admission, student, student organization, faculty
6 member, or prospective faculty member may bring a civil action in circuit court
7 against an institution for a violation of sub. (1), and against any employee of the
8 institution whose actions caused or contributed to the violation. The civil action may
9 seek declaratory relief, an injunction against further violation of sub. (1), an award
10 of damages, or any combination of these remedies.

11 (b) An injunction imposed under this subsection against an institution because
12 of a violation of sub. (1) may include an order requiring the institution to do any of
13 the following:

14 1. Admit the applicant for enrollment as a student.

15 2. Reenroll a student who was suspended or expelled.

16 3. Hire a person for the position for which the person's employment application
17 was rejected.

18 4. Rehire in the same or equal position an employee who was removed or
19 terminated from his or her job.

20 5. Promote an employee who was denied a promotion.

21 6. Grant tenure to an employee who was denied tenure.

22 7. Provide funding to a student organization.

23 (c) Notwithstanding s. 814.04 (1), in an action under par. (a), the court may
24 award the prevailing party reasonable attorney fees, in addition to court costs.

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1 (d) A person is not required to exhaust any other administrative or legal
2 remedy before bringing an action under par. (a).

3 (e) The attorney general may file an action to enjoin a violation of sub. (1),
4 including to invalidate any policy or practice inconsistent with sub. (1).

5 (4) (a) An institution shall impose discipline as provided in par. (b) or (c) on an
6 employee whose actions are found to have caused or contributed to the institution's
7 violation of sub. (1), regardless of whether the employee is tenured, employed at will,
8 or employed on a contract basis.

9 (b) An employee who has not previously been disciplined under par. (a) shall
10 be placed on unpaid leave for the academic year that commences immediately after
11 the violation of sub. (1). During this period of unpaid leave, the employee may not
12 be assigned to any institution, and no technical college district board may hire the
13 employee.

14 (c) An employee who has been disciplined under par. (a) within the immediately
15 preceding 5-year period shall be terminated from employment by the system, and
16 the employee may not be rehired by the system, or hired by a technical college district
17 board, within 5 years after the date of termination.

18 (d) In any proceeding to impose discipline under this subsection, the board shall
19 follow the same procedures established by the board under ss. 36.115 and 36.15 for
20 other disciplinary matters of similar gravity, including notice and an opportunity for
21 hearing, but any provision contrary to this subsection, including any provision
22 relating to progressive discipline, shall not apply. An employee's actions that result
23 in a violation of sub. (1) constitute just cause for the disciplinary actions against the
24 employee under pars. (b) and (c).

25 **SECTION 2.** 38.235 of the statutes is created to read:

SENATE BILL 988**SECTION 2**

1 **38.235 Loyalty pledges. (1)** (a) Subject to par. (c), neither a district board
2 nor an institutional review board associated with a district board may do any of the
3 following:

4 1. Condition admission of or financial aid to an applicant on the applicant's
5 pledging allegiance to or making a statement of personal support for or opposition
6 to any political ideology or movement, including a pledge or statement regarding
7 diversity, equity, inclusion, or related topics.

8 2. Condition the recognition or funding of any student organization on the
9 organization or a student pledging allegiance to or making a statement of personal
10 support for or opposition to any political ideology or movement, including a pledge
11 or statement regarding diversity, equity, inclusion, or related topics.

12 3. Condition the hiring, reappointment, annual review, performance review, or
13 promotion of a faculty member or prospective faculty member, or the research
14 approval for a researcher, on the person's pledging allegiance to or making a
15 statement of personal support for or opposition to any political ideology or movement,
16 including a pledge or statement regarding diversity, equity, inclusion, or related
17 topics.

18 4. Request or require a pledge or statement described in subds. 1. to 3. from an
19 applicant for admission, a student or student organization, or a faculty member or
20 prospective faculty member.

21 (b) Subject to par. (c), if a district board receives a pledge or statement from an
22 applicant for admission, a student or student organization, or a faculty member or
23 prospective faculty member describing a commitment to any political ideology or
24 movement, including a pledge or statement regarding diversity, equity, inclusion, or
25 related topics, the district board may not grant admission of or financial aid to the

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1 applicant, recognize or provide funding to or withhold recognition or funding from
2 the student organization, or hire, reappoint, or promote the faculty member or
3 prospective faculty member, on the basis of the viewpoints expressed in the pledge
4 or statement.

5 (c) This subsection shall not be construed to do any of the following:

6 1. Prohibit a district board from requiring any person to comply with federal
7 or state law, including antidiscrimination laws, or from taking action against such
8 a person for violating federal or state law.

9 2. Limit or restrict the academic freedom of faculty or prevent faculty members
10 from teaching, researching, or writing publications about diversity, equity, inclusion,
11 or related topics.

12 3. Prohibit a district board from considering, in good faith, a faculty member's
13 scholarship, teaching, or subject-matter expertise in the faculty member's academic
14 field.

15 (2) Each district board shall post and make publicly available on its website
16 all training materials used for students, faculty, and staff on all matters of
17 nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias and all of
18 the district board's policies and guidance on these matters.

19 (3) (a) An applicant for admission, student, student organization, faculty
20 member, or prospective faculty member may bring a civil action in circuit court
21 against a district board for a violation of sub. (1), and against any employee of the
22 district board whose actions caused or contributed to the violation. The civil action
23 may seek declaratory relief, an injunction against further violation of sub. (1), an
24 award of damages, or any combination of these remedies.

SENATE BILL 988**SECTION 2**

1 (b) An injunction imposed under this subsection against a district board
2 because of a violation of sub. (1) may include an order requiring the institution to do
3 any of the following:

4 1. Admit the applicant for enrollment as a student.

5 2. Reenroll a student who was suspended or expelled.

6 3. Hire a person for the position for which the person's employment application
7 was rejected.

8 4. Rehire in the same or equal position an employee who was removed or
9 terminated from his or her job.

10 5. Promote an employee who was denied a promotion.

11 6. Grant tenure to an employee who was denied tenure.

12 7. Provide funding to a student organization.

13 (c) Notwithstanding s. 814.04 (1), in an action under par. (a), the court may
14 award the prevailing party reasonable attorney fees, in addition to court costs.

15 (d) A person is not required to exhaust any other administrative or legal
16 remedy before bringing an action under par. (a).

17 (e) The attorney general may file an action to enjoin a violation of sub. (1),
18 including to invalidate any policy or practice inconsistent with sub. (1).

19 (f) Section 893.80 does not apply to an action brought against a district board
20 under par. (a).

21 **(4)** (a) A district board shall impose discipline as provided in par. (b) or (c) on
22 an employee whose actions are found to have caused or contributed to the district
23 board's violation of sub. (1), regardless of whether the employee is tenured, employed
24 at will, or employed on a contract basis.

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1 (b) An employee who has not previously been disciplined under par. (a) shall
2 be placed on unpaid leave for the academic year that commences immediately after
3 the violation of sub. (1). During this period of unpaid leave, neither the University
4 of Wisconsin System nor any district board may hire the employee.

5 (c) An employee who has been disciplined under par. (a) within the immediately
6 preceding 5-year period shall be terminated from employment, and the employee
7 may not be rehired by the district board, or hired by any other district board or the
8 University of Wisconsin System, within 5 years after the date of termination.

9 (d) In any proceeding to impose discipline under this subsection, a district
10 board shall follow the same procedures established by the district board for other
11 disciplinary matters of similar gravity, including notice and an opportunity for
12 hearing, but any provision contrary to this subsection, including any provision
13 relating to progressive discipline, shall not apply. An employee's actions that result
14 in a violation of sub. (1) constitute just cause for the disciplinary actions against the
15 employee under pars. (b) and (c).

16 **SECTION 3.** 801.50 (5d) of the statutes is created to read:

17 801.50 (5d) Venue of an action under s. 36.13 (3) (a) or 38.235 (3) (a) shall be
18 in the county designated by the plaintiff.

19 **SECTION 4. Initial applicability.**

20 (1) This act first applies in the first semester or session beginning after the
21 effective date of this subsection.

22 (END)