

## **Divisive Concepts and Freedom of Expression**

This notice is intended to comply with the Tennessee Higher Education Freedom of Expression and Transparency Act (the “Act”) and to reflect the Board of Regents’ and institutional commitment to freedom of speech and academic freedom.

### **I. Definitions**

#### **A. Divisive Concept** means a concept that:

1. One (1) race or sex is inherently superior or inferior to another race or sex;
2. An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously;
3. An individual should be discriminated against or receive adverse treatment because of the individual's race or sex;
4. An individual's moral character is determined by the individual's race or sex;
5. An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
6. An individual should feel discomfort, guilt, anguish, or another form of psychological distress solely because of the individual's race or sex;
7. A meritocracy is inherently racist or sexist, or designed by a particular race or sex to oppress another race or sex;
8. This state or the United States is fundamentally or irredeemably racist or sexist;
9. Promotes or advocates the violent overthrow of the United States government;
10. Promotes division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people;
11. Ascribes character traits, values, moral or ethical codes, privileges, or beliefs to a race or sex, or to an individual because of the individual's race or sex;
12. The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups;
13. All Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including, life, liberty, and the pursuit of happiness;
14. Governments should deny to any person within the government's jurisdiction the equal protection of the law;
15. Includes race or sex stereotyping; or
16. Includes race or sex scapegoating.

#### **B. Faculty** means any person, whether or not the person is compensated by the institution, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. "Faculty" includes tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. "Faculty"

does not include persons whose primary responsibilities are administrative or managerial.

- C. **Race or sex scapegoating** means assigning fault, blame, or bias to a race or sex, or to members of a race or sex, because of their race or sex, and includes any claim that, consciously or subconsciously, and by virtue of a person's race or sex, members of a race are inherently racist or inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.
- D. **Race or sex stereotyping** means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of the individual's race or sex.

## II. **Freedom of Speech, Freedom of Expression, and Academic Freedom**

- A. Nothing in this notice or the Act shall be interpreted to:
  - 1. Infringe on freedom of speech protected by the First Amendment to the United States Constitution, the Tennessee Constitution, or the Tennessee Campus Free Speech Protection Act, as explained in [TBR Policy 1.03.02.60 Freedom of Speech and Expression](#);
  - 2. Infringe on the rights of academic freedom of faculty and other instructors as protected by the First Amendment to the United States Constitution, the Tennessee Constitution, or the Tennessee Campus Free Speech Protection Act, as explained in [TBR Policy 1.03.02.60 Freedom of Speech and Expression](#);
  - 3. Require an employee to:
    - a. Violate any federal or state law, rule, or regulation; or
    - b. Fail to comply with any applicable academic accreditation requirement; or
  - 4. Prohibit an institution from training students or employees on the non-discrimination requirements of federal or state law.

## III. **Prohibited Activity**

- A. Neither the institution nor any employee shall penalize, discriminate against, or engage in any adverse treatment due to a student's or employee's refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to one or more divisive concepts.
- B. Neither the institution nor any employee shall require a student or employee to endorse a specific ideology or political viewpoint to be eligible for hiring, tenure, promotion, or graduation.
- C. Neither the institution nor any employee shall ask the ideological or political viewpoint of an applicant for admission, student, job applicant, job candidate, or candidate for promotion or tenure. This Section shall not be construed to prohibit classroom instruction or discussion, to prohibit any other teaching or pedagogical

activity, to interfere with academic freedom, or to violate the Campus Free Speech Protection Act, as explained in [TBR Policy 1.03.02.60 Freedom of Speech and Expression](#).

#### **IV. Investigation and Resolution of Complaints**

- A. A student or employee who believes that the institution or an employee has engaged in Prohibited Activity may file a complaint by submitting a complaint to [Submitting a Comment, Complaint or Request | Tennessee Board of Regents \(tbr.edu\)](#).