

Diversity, Equity, Inclusion, and Justice

New US State Laws Conflict With ACGME Common Program Requirements

Sarah Smith , MD, MS

Saman Yaghoubian , DO

Matthew Wecksell , MD

In pursuit of its mission to “improve health care and population health by assessing and enhancing the quality of resident and fellow physicians’ education”¹ and in recognition of “how increasing diversity in the physician workforce positively impacts health care access and patient outcomes,”² the Accreditation Council for Graduate Medical Education (ACGME) has incorporated diversity, equity, and inclusion (DEI) principles into the current Common Program Requirements, which were made effective July 1, 2023.³ However, an unresolved conflict has arisen between ACGME Core Program Requirements pertaining to DEI and new laws in many US states that severely limit or ban DEI initiatives at public institutions. This conflict leaves residency training programs affiliated with public institutions in a bind: they can follow the law and be out of compliance with ACGME Common Program Requirements or follow the requirements and be in violation of the law. Here we explore where state laws may impede the ability of physician training programs to maintain ACGME compliance and provide guidance for program directors and faculty in affected programs.

The Rise of Anti-DEI Legislation

In recent years, 87 bills have been introduced into state legislatures and the US Congress limiting DEI initiatives in public institutions, 14 of which have become law⁴ (TABLE). By prohibiting public employees, such as faculty at public universities, from engaging in certain DEI activities, these laws will impact residency programs’ ability to comply with accreditation requirements. The contents of proposed and enacted state laws curtailing DEI initiatives have focused on 4 main areas: (1) prohibition of DEI offices and staff; (2) prohibition of diversity statements; (3) prohibition of mandatory DEI training; and (4) prohibition on

identity-based preferences for hiring and admissions. While any of these prohibitions could affect residency training programs, the latter 2 are most in conflict with ACGME Common Program Requirements.

ACGME Common Program Requirements stipulate that training programs cultivate a clinical learning environment “free from discrimination, sexual and other forms of harassment” (Section VI.B.5).³ Additionally, the requirements state that residents must demonstrate competence in cultural humility (Section IV.B.1.a).(1).(c)) and “respect and responsiveness to diverse patient populations” (Section IV.B.1.a).(1).(f)).³ To maintain compliance with these requirements, many training programs have incorporated DEI training and education into their curricula,⁵ training that is now prohibited in some parts of the country. Some of the new laws include exemptions for educational activities. For example, Alabama’s Senate Bill 129 states that “certain circumstances relating to accreditation, academic instruction, student groups, and other scenarios are not prohibited.”⁶ However, it then falls to program directors and other faculty members to decipher what mandatory educational activities are considered to fall under these “special circumstances” and which are a violation of the law.

Anti-DEI legislation banning identity-based hiring practices are particularly in conflict with ACGME Common Program Requirements, specifically Section I.C. which states that programs “must engage in practices that focus on mission-driven, ongoing, systematic recruitment and retention of a diverse and inclusive workforce” and that “programs implement policies and procedures related to recruitment and retention of individuals underrepresented in medicine and medical leadership.”³ Such “systematic recruitment” of a diverse workforce is now illegal at public institutions in several states (TABLE). Proponents of anti-DEI laws prohibiting identity-based hiring practices have argued they only bolster Title VII of the Civil Rights Act of 1964 which prohibits employment discrimination based on race, gender, religion, or ethnicity. However, while the use of quotas or explicit preferences are

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TABLE

State Laws Banning DEI⁴

State	Bill	Date in Effect	Ban on Mandatory DEI Training	Ban on Identity-Based Preferences in Hiring	Other Provisions
Alabama	Senate Bill 129	October 1, 2024	Yes	Yes	- Ban on DEI offices - Limits the discussion of “divisive concepts”
Florida	Senate Bill 266 House Bill 999	July 1, 2023	No	Yes	Ban on DEI offices
Idaho	Senate Bill 1274	July 1, 2024	No	No	Ban on diversity statements
Indiana	Senate Bill 202	July 1, 2024	No	No	- Ban on diversity statements - Mandatory “neutrality statements”
Iowa	Senate File 2435	July 1, 2025	Yes	Yes	- Ban on DEI offices - Ban on diversity statements
Kansas	House Bill 2105	July 1, 2024	No	No	Ban on diversity statements
North Carolina	Senate Bill 364	December 1, 2023	Yes	No	Ban on diversity statements
North Dakota	Senate Bill 2247	August 1, 2023	Yes	No	
Tennessee	Senate Bill 102 House Bill 158	May 17, 2023	Yes	No	
Texas	House Bill 5127 Senate Bill 17	January 1, 2024	Yes	Yes	- Ban on DEI offices - Ban on diversity statements
Utah	House Bill 261	January 30, 2024	Yes	Yes	- Ban on DEI offices - Ban on diversity statements
Wyoming	Budget 2024	March 2024	No	No	Ban on DEI offices

Abbreviation: DEI, diversity, equity, and inclusion.

prohibited by Title VII, it still allows for affirmative action practices to remedy workplace imbalances.⁷

Examples of Affected Institutions

The University of Iowa Hospitals and Clinics trains approximately 800 residents and fellows in 29 residencies and 84 fellowships.⁸ Effective July 1, 2025, Iowa law prohibits “any effort to manipulate or otherwise influence the composition of the faculty or student body with reference to race, sex, color, or ethnicity.”⁹ Should training programs at the University of Iowa maintain compliance with ACGME Common Program Requirement Section I.C., and engage in the “systematic recruitment”³ of diverse faculty and trainees, they would be in clear violation of this aspect of the law. The law further bans “any effort to promote, as the official position of the public institution of higher education, a particular, widely

contested opinion referencing unconscious or implicit bias, cultural appropriation, allyship, transgender ideology, microaggressions, group marginalization, anti-racism, systemic oppression, social justice, intersectionality, neo-pronouns, heteronormativity, disparate impact, gender theory, racial privilege, sexual privilege, or any related formulation of these concepts.”⁹

Although the Iowa law includes an exemption for “academic course instruction,”⁹ the specificity of language in this legislation is likely to have a chilling effect on training programs addressing DEI principles in their curricula. Again, program directors and other faculty will be in the difficult position of providing education on these concepts while avoiding the perception that they are being promoted as the “official position of the public institution.” It remains to be seen how those 29 residencies and 84 fellowships will address these legal conflicts in their ACGME Annual Updates.

The University of Arkansas for Medical Sciences currently sponsors 69 ACGME-accredited residency and fellowship programs.¹⁰ Senate Bill 71 in that state would make it a Class A Misdemeanor for a public sector employee to consider race, sex, color, ethnicity, and national origin in hiring. This bill, which passed in the Arkansas Senate, ultimately failed to pass the Arkansas House and is not law.⁴ Should it come back, or should other states adopt similar statutes, engaging “systematic recruitment and retention of a diverse and inclusive workforce,” as required to maintain ACGME compliance,³ would not just be prohibited, but would actually pose personal legal risk to faculty at affected institutions.

The array of bills prohibiting DEI activity is growing, and many of them will become state law. At the national level, House of Representatives 7725, introduced in spring 2024 and currently in the House Committee on Education and the Workforce, would “amend the Higher Education Act of 1965 to prohibit graduate medical schools from receiving Federal financial assistance if such schools adopt certain policies and requirements relating to diversity, equity, and inclusion.”¹¹ If enacted, this bill would affect all US graduate medical education (GME) programs, even in states where anti-DEI legislation has not been proposed.

Guidance for Training Programs

To navigate the changing landscape of anti-DEI legislation, it behooves GME training programs to be aware of the laws affecting them. The *Chronicle of Higher Education* maintains a comprehensive DEI Legislation Tracker⁴ that is frequently updated so that GME administrators, program directors, and faculty can remain abreast of enacted and proposed legislation in their state. Training programs in states where anti-DEI legislation has been put into effect should consult with hospital legal advisors regarding the boundaries of prohibited and permitted activities, both in terms of educational content and recruitment. Regarding compliance with ACGME Common Program Requirements, particularly Section I.C., relating to the recruitment of a diverse workforce, programs have little choice but to report to the ACGME that their efforts are legally constrained and that they cannot be in full compliance. Finally, residency programs and their sponsoring institutions should respond to anti-DEI legislation by continuing to invest in health disparities research and by carefully evaluating the impact of such legislation on the diversity of the health care workforce.

References

1. Accreditation Council for Graduate Medical Education. Mission, vision, and values. Accessed November 18, 2024. <https://www.acgme.org/about/overview/mission-vision-and-values/>
2. Accreditation Council for Graduate Medical Education. Diversity, equity, and inclusion. Accessed November 18, 2024. <https://www.acgme.org/initiatives/diversity-equity-and-inclusion/>
3. Accreditation Council for Graduate Medical Education. ACGME Common Program Requirements (Residency). Accessed November 18, 2024. https://www.acgme.org/globalassets/pfassets/programrequirements/cprresidency_2023.pdf
4. The Chronicle of Higher Education. DEI legislation tracker. Accessed November 18, 2024. <https://www.chronicle.com/article/here-are-the-states-where-lawmakers-are-seeking-to-ban-colleges-dei-efforts>
5. Chung AS, Cardell A, Desai S, et al. Educational outcomes of diversity curricula in graduate medical education. *J Grad Med Educ*. 2023;15(2):152-170. doi:10.4300/JGME-D-22-00497.1
6. SB129. 2024 Session. (Alabama 2024). Accessed January 31, 2025. <https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2024RS/SB129-int.pdf>
7. Title VII of the Civil Rights Act of 1964 (Title VII) (Pub. L. 88-352).
8. University of Iowa Health Care. Graduate medical education. Accessed November 23, 2024. <https://gme.medicine.uiowa.edu/>
9. SF 2435. 2024 Session. (Iowa 2024). Accessed January 31, 2025. <https://www.legis.iowa.gov/docs/publications/LGI/90/HF616.pdf>
10. University of Arkansas for Medical Sciences. Graduate medical education. Accessed November 23, 2024. <https://medicine.uams.edu/gme/>
11. To Amend the Higher Education Act of 1965 to Prohibit Graduate Medical Schools from Receiving Federal Financial Assistance if Such Schools Adopt Certain Policies and Requirements Relating to Diversity, Equity, and Inclusion, HR 7725, 118th Cong (2024). Accessed January 27, 2025. <https://www.congress.gov/bill/118th-congress/house-bill/7725>



Sarah Smith, MD, MS, is an Associate Clinical Professor of Anesthesiology, New York Medical College, and Residency Program Director, Department of Anesthesiology, Westchester Medical Center, Valhalla, New York, USA; **Saman Yaghoubian, DO**, is an Assistant Clinical Professor of Anesthesiology, New York Medical College, Valhalla, New York, USA; and **Matthew Wecksell, MD**, is an Associate Clinical Professor of Anesthesiology and Neurosurgery, New York Medical College, Valhalla, New York, USA.

Corresponding author: Matthew Wecksell, MD, New York Medical College, Valhalla, New York, USA, matthew.wecksell@wmchealth.org