

# State of Wisconsin



2023 Assembly Bill 1065

Date of enactment:  
Date of publication\*:

## 2023 WISCONSIN ACT

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

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

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

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

1. Condition admission of or financial aid to an applicant on the applicant'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.

2. Condition the recognition or funding of any student organization on the organization or a student 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.

3. Condition the hiring, reappointment, annual review, performance review, or promotion of a faculty member or prospective faculty member, or the research approval for a researcher, on the person's pledging allegiance to or making a statement of personal support for or opposition to any political ideology or movement, in-

cluding a pledge or statement regarding diversity, equity, inclusion, or related topics.

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

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

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

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

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

1. Admit the applicant for enrollment as a student.
2. Reenroll a student who was suspended or expelled.
3. Hire a person for the position for which the person's employment application was rejected.
4. Rehire in the same or equal position an employee who was removed or terminated from his or her job.
5. Promote an employee who was denied a promotion.
6. Grant tenure to an employee who was denied tenure.
7. Provide funding to a student organization.

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

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

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

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

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

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

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

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

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

1. Condition admission of or financial aid to an applicant on the applicant'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.

2. Condition the recognition or funding of any student organization on the organization or a student 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.

3. Condition the hiring, reappointment, annual review, performance review, or promotion of a faculty member or prospective faculty member, or the research approval for a researcher, on the person'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.

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

(b) Subject to par. (c), if a district board receives a pledge or statement from an applicant for admission, a

student or student organization, or a faculty member or prospective faculty member describing a commitment to any political ideology or movement, including a pledge or statement regarding diversity, equity, inclusion, or related topics, the district board may not grant admission of or financial aid to the applicant, recognize or provide funding to or withhold recognition or funding from the student organization, or hire, reappoint, or promote the faculty member or prospective faculty member, on the basis of the viewpoints expressed in the pledge or statement.

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

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

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

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

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

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

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

1. Admit the applicant for enrollment as a student.
2. Reenroll a student who was suspended or expelled.
3. Hire a person for the position for which the person's employment application was rejected.
4. Rehire in the same or equal position an employee who was removed or terminated from his or her job.

5. Promote an employee who was denied a promotion.

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

7. Provide funding to a student organization.

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

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

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

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

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

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

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

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

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

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

**SECTION 4. Initial applicability.**

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