Novoa v. Diaz et al.,

Exhibit 5 to Declaration of Adam Steinbaugh in Support of Plaintiffs’ Motion for Preliminary Injunction
INTRODUCTION TO HB 7

This page provides information about Florida’s HB 7 law as it relates to academic instruction and employee training, and makes recommendations about how to remain within the law’s requirements. These recommendations make clear that faculty can continue to address the full spectrum of academic topics in their classes and trainers can continue to provide instruction that advances our diversity and inclusion goals and values. As we adhere to the law, we will be guided by the university’s core values, specifically those that emphasize community, freedom and civility, and inclusion. At UF, we work together, embrace a range of viewpoints, and celebrate differences as we strive for intellectual excellence.

This page will be updated periodically as new information and guidance becomes available.

Below are excerpts from HB 7, SB 2524 and related legislation, specific guidance related to academic instruction and employee training, and a series of FAQs.

For questions, please email uf-cdo@ufl.edu. Also, you can use the links below to jump to specific page sections.

HB 7 and Related Legislation

Recommendations for the UF Community

FAQs

HB 7 and Related Legislation

House Bill 7 2022 (HB 7) was passed by the Florida Legislature and signed by the Governor in 2022. Effective July 1, 2022, HB 7 amends two statutes that apply to the University - the Florida Educational Equity Act (Fla. Stat. § 1000.05) and the Florida Civil Rights Act (Fla. Stat. § 760.10). As amended, the Florida Educational Equity Act and the Florida Civil Rights Act make it unlawful discrimination to subject a student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe any of the eight concepts listed in HB 7.

Fla. Stat. § 1000.05 - Florida Educational Equity Act

Fla. Stat. § 760.10 - Florida Civil Rights Act

HB 7 - Individual Freedom

SB 2524 - Enforcement of individual freedom requirements
Recommendations for the UF Community

The resources below provide further clarification and recommendations related to HB 7.

**Academic Instruction**

The Office of the Provost has created this presentation for faculty. It provides recommendations for how instructors can remain within the law's guidelines while continuing to discuss important academic subjects that reflect the core values of the university.

Click on the thumbnail below and then click next to play the video.

**ADDITIONAL RESOURCES FOR ACADEMIC INSTRUCTION**

People learn best when they are encouraged to ask questions and express their diverse opinions on course content which may include images, texts, data, or theories from many fields. This is especially true in courses that deal with provocative or contemporary issues. UF offers many such courses and resources are available to faculty in Canvas to support high impact best practices.

- Center for Teaching Excellence Resource Library: Teaching Difficult Dialogues
- UF Instructor Guide: "What Is an Inclusive Environment?" and "Humanizing Your Course"
- Canvas Resources for Teaching Difficult Dialogues

**Employee Training**

This presentation created by UFHR provides an overview and some general guidelines for faculty and staff trainers on how to remain within the law while continuing to provide impactful training that advances UF's diversity and inclusion goals and values.
ADDITIONAL RESOURCES FOR EMPLOYEE TRAINING

HB 7 is clear that issues of “race, color, national origin, or sex” can be discussed in employee training, but must be discussed in an objective manner. Below are some additional resources to assist trainers in creating an environment that promotes discussion of different perspectives with mutual respect and allows participants to develop their own perspectives.

- Training and Facilitation Guidelines for HB 7
- Clear and Kind Facilitation
- Creating Psychological Safety
- Role of Facilitator

FAQS

What is HB 7?

House Bill 7 2022 (HB 7) was passed by the Florida Legislature and signed by the Governor in 2022. Effective July 1, 2022, HB 7 amends two statutes that apply to the University - the Florida Educational Equity Act (Fla. Stat. § 1000.05) and the Florida Civil Rights Act (Fla. Stat. § 760.10). As amended, the Florida Educational Equity Act and the Florida Civil Rights Act (referred to in these FAQs as the HB7 laws) make it unlawful discrimination to subject a student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe any of the following eight concepts:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.

2. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.

4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.

5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.

6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.

7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part, committed in the past by other members of the same race, color, sex, or national origin.
8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

However, the HB 7 laws do not prohibit discussion of the concepts as part of a course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

How is “instruction” defined?

The HB 7 laws do not define instruction. However, the Board of Governor’s proposed regulation defines instruction as “the process of teaching or engaging students with content about a particular subject by a university employee or a person authorized to provide instruction by the university within a course.” There is no indication that “instruction” is limited to classroom lecture and discussion. Therefore, instructors should assume that HB 7 applies in office hours and other informal instruction settings.

How is “training” defined?

The HB 7 laws do not define training. However, the Board of Governor’s proposed regulation defines training as “planned and organized activity conducted by the university as a mandatory condition of employment, enrollment, or participation in a university program for the purpose of imparting knowledge, developing skills or competencies, or becoming proficient in a particular job or role.”

Can I discuss the concepts in instruction or training?

Yes. The HB 7 laws do not prohibit discussion of the concepts as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

Can I discuss historical events and facts related to the concepts in instruction or training?

The HB 7 laws do not prohibit facilitating discussions and using curricula or training materials to address how, for example, the freedoms of persons have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms have overturned these unjust laws.

Does the University have any guidance for instructors who want to discuss the concepts objectively and without endorsement?

Instructors should review their curriculum and presentations to determine if the way the material is currently written or presented could be interpreted as “espousing, promoting, advancing, inculcating or compelling belief” in any of the concepts.

Discussion of a concept in an objective manner, however, does not mean that the concept must be discussed in neutral terms. For instance, an instructor need not ignore the weight of research, studies, data, or other indicia of academic or scientific validity regarding a concept when discussing it in class. Additionally, the instructor may engage students in critical thought on the ideas discussed so long as it does not come at the expense of a student’s ability to hold and share their own viewpoint on the concept.

While the HB 7 laws prohibit an instructor from lowering a student’s grade based on the student’s viewpoint on any of the concepts, an instructor should still evaluate a student’s understanding of ideas and concepts in course work. For example, if a student indicates that an idea is inconsistent with the student’s personal beliefs yet can demonstrate the required learning objective, then the student’s grade should not suffer.

Endorsing a concept is inconsistent with the plain text of the law. If asked by a student if the faculty member agrees with a concept, the faculty member would be in the best position to simply say that: “my own personal conclusions and beliefs are not part of the discussion.” If a student wishes to discuss a concept, the discussion should follow similar parameters as those set forth above. The instructor should facilitate discussion and critical thought in an objective manner by allowing the free flow of ideas in the classroom and refrain from endorsing or condemning any student’s viewpoint.

Instructors should also consider whether to include a prepared introductory statement in a syllabus or curriculum materials to ensure consistency in the presentation of information and compliance with the laws’ requirements. One example is:

People learn best when they are encouraged to ask questions and express their diverse opinions on course content which may include images, texts, data, or theories from many fields. This is especially true in courses that deal with provocative or contemporary issues. UF offers many such courses, in which students encounter concepts of race, color, sex, and/or national origin. We teach these important issues because understanding them is essential for anyone who seeks to make economic, cultural, and societal contributions to today’s complex world. With this in mind, we do not limit access to, or classroom discussion of, ideas and opinions—including those that some may find uncomfortable, unwelcome, disagreeable, or even offensive. In response to challenging material, students and instructors are encouraged to ask honest questions and thoughtfully engage one another’s ideas. But hostility, disruptive and disrespectful behavior, and provocation for provocation’s sake have no place in a classroom; reasonable people disagree reasonably. These guidelines can help instructors and students as they work together to fulfill the mission of the University of Florida, which includes the exploration of intellectual boundaries, the creation of new knowledge and the pursuit of new ideas.

Consistent with the exercise of academic responsibility, an instructor must have freedom in the classroom to discuss academic subjects. The university student must likewise have the opportunity to study a full spectrum of ideas, opinions, and beliefs, so that the student may acquire the
Does the University have any guidance specific to trainers who want to discuss the concepts objectively as part of their teaching?

In addition to the guidance provided above, trainers may consider making diversity, equity and inclusion training voluntary. The proposed BOG regulation defines training as “planned and organized activity conducted by the university as a mandatory condition of employment, enrollment, or participation in a university program.”

Additionally, when discussing the concepts in training, the trainer should focus on facilitating open and candid discussion of participant viewpoints and perspectives rather than being a “sage on the stage.”

Do instructors retain academic freedom in the classroom?

As set forth in UF Regulation 7.018, academic freedom and responsibility are essential to the full development of a true university and apply to teaching, research, and creativity. In the development of knowledge, research endeavors, and creative activities, the faculty must be free to cultivate a spirit of inquiry and scholarly criticism and to examine ideas in an atmosphere of freedom and confidence. The University respects and supports the professional judgment of its faculty in their right to select topics for teaching and research, including issues related to race, sex, national origin and color. Faculty retain the freedom in the classroom to discuss academic subjects related to the curriculum and within their disciplinary expertise, select instructional materials and determine grades. While such discussions may at times make some people feel uncomfortable, this is part of a rigorous education that provides the tools necessary for responsible and engaged citizenship and will be protected so long as students retain the freedom to reach their own conclusions and freely hold and share their own beliefs and viewpoints on these issues.

Are guest speakers considered instructors or trainers under the HB 7 laws?

If a guest speaker is providing instruction or training with the authorization of the University or any of its employees, that guest speaker may be considered a University instructor or trainer under the HB 7 laws.

The University recommends that when a guest lecturer is invited into instruction or training, the inviting employee provide the guest lecturer a copy of the HB 7 laws, which can be found here, and these FAQs to be read before the speaking engagement. The guest speaker should be asked if their presentation and materials are consistent with the HB 7 laws. If they are not, the guest speaker must modify them or the presentation should be canceled.

If a guest speaker acts inconsistent with the HB 7 laws, the employee that has authorized the guest speaker must take action to remedy situation. If it can be done without causing a greater disruption to the instruction or training, the employee is encouraged to make an immediate statement to remind the speaker against endorsement or promotion of the concepts and confirm to students and trainees that they are not required adopt any of the views of the guest speaker. Otherwise, the employee should take steps to remedy the guest speaker’s statements at the next available opportunity.

How are complaints of violations of the HB 7 laws made/received at the University?

A complaint of an alleged violation of the HB 7 laws may be submitted to UF Employee Relations by submitting an online complaint here. An administrator who receives a complaint of an alleged violation must forward such complaint to UFHR Employee Relations at EmployeeRelations@hr.ufl.edu.

Administrators include the following high level personnel who have been assigned the responsibilities of University and unit-wide academic or administrative functions: University president, provost, senior/executive vice presidents, vice presidents, associate/assistant vice presidents, associate/assistant/vice provosts, deans, directors, chairs, equal opportunity programs director, chief audit executive, and chief compliance officer.

How are complaints of violations of the HB 7 laws handled at the University?

After receiving a complaint of a violation of the HB 7 laws, Employee Relations will provide the complaint to the Provost’s Office. The Provost’s Office shall direct, supervise and coordinate the investigation of a credible complaint that identifies an alleged training or instruction that espouses, promotes, advances, inculcates, or compels a student or employee to believe any of the concepts.

An investigator assigned by the Provost’s Office shall make findings of fact related to the allegations and report such findings to the Provost, or designee, who shall review the facts and work with appropriate University employees to remedy any concerns before making a decision regarding whether a substantiated violation exists. Like other investigations at the University, the person that is the subject of the complaint does not have the burden of disproving the allegations. The Provost will determine whether the findings of fact establish that it is more likely than not a violation occurred. The Provost may convene an ad hoc committee of University employees to assist in remediying concerns or providing context to assist in the determination.

Consistent with the Campus Free Expression Act (Fla. Stat. § 1004.097), a University investigation will focus on the alleged statements and actions that are inconsistent with the HB 7 laws. The investigation will not rely on evidence that the complainant found the instruction or training to be uncomfortable, unwelcome, disagreeable, or offensive.

What happens if the Provost or designee finds a substantiated violation?

The University’s principal goal is to maintain compliance with the HB 7 laws. If a concern can be remedied so that a violation does not exist, the investigation will stop as the complaint is resolved. If the Provost or designee determines there is a substantiated violation of the HB 7 laws, the Provost may take one or more of the following actions:
In the event the Provost or designee finds a substantiated violation of the HB 7 laws, the University Chief Audit Executive will inform the Board of Governors through the Office of Inspector General. The University must also take prompt action to correct the violation by:

- Mandating that the employee responsible for the violation modify the instruction or training to be consistent with this regulation;
- Taking disciplinary measures where appropriate; and
- Remove, by termination if appropriate, the responsible employee if there is a failure or refusal to comply with the mandate.

Whether an employee's actions were inadvertent or willful and knowing and the employee's cooperation in the University's efforts to remediate a violation will factor into the type of corrective action the University will take with regard to a particular incident.

What are the consequences to the University for violations of the HB 7 laws?

If a substantiated violation of the HB7 laws is determined by either a standing committee of the Legislature, a court or the Board of Governors, the University could forfeit its performance funding for the next fiscal year.

Additionally, the HB7 laws provide that a University student or employee who is subject to discrimination under the HB 7 laws may file suit against the University.

Will the University have a regulation related to the HB 7 laws?

The Board of Governors is currently in the process of adopting a regulation related to the HB 7 laws. The proposed BOG regulation requires each university to have a regulation. The University will adopt an applicable regulation after the BOG regulation is adopted.

Does HB 7 prohibit instruction or training that discusses the eight concepts listed in HB 7?

No. HB 7 allows discussion of these concepts as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts.

Does HB 7 prohibit instruction or training that discusses historical facts and events related to racism and sexism?

No. Instruction and training may facilitate discussions to address how, for example, the freedoms of persons have been infringed by sexism, slavery, racial oppression, racial segregation, and racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, racial segregation, and racial discrimination and how recognition of these freedoms have overturned these unjust laws.