

Testimony of Emily Houh, J.D.

Before the House Higher Education Committee

Representative Tom Young, Chair

May 17, 2023

Chair Young, Ranking Member Miller, and Members of the Higher Education Committee:

Thank you for allowing me to testify today. My name is Emily Houh. I have lived in Ohio since 2000. I have two teenaged boys who have attended public schools their whole lives. Though testifying as a private citizen, I am a professor of law at the University of Cincinnati, where I have been teaching contracts, commercial law, and critical race theory for 20 years. I also research, among other things, the role of race, gender, and sex in our legal system and society. I submit this testimony in my individual capacity to express my strong opposition to Substitute House Bill 151.

In restricting my and others' ability to teach about race and related "controversial matters and specified concepts," as those are defined in the bill, HB 151 if passed would deprive Ohio citizens of their freedom to learn and be well-educated. In turn, this would lead to the erosion of democracy and democratic ideals. As we all know, we live in a society that continues to rapidly change and diversify, in large part due to the extension of civil rights in the early and mid-1950s and -60s to those who for too long were denied them. Our continuously evolving democracy cannot exist or flourish if its citizens are not educated about the complex facets of American history and society, even if and perhaps especially because those facets are "controversial." You have already from many, but I will speak specifically as a university professor and teacher of future lawyers.

First, I want to address an assumption of HB 151: that there is a lack of intellectual diversity in our institutions of higher education. The foundational concepts of American education rest on Western classical liberal ideas, such as individual free will, free markets, and political equality. These concepts continue to permeate our institutions, from K12 through higher ed. They did so without much competition until a few decades ago, when public education became more accessible to a growing and increasingly diverse citizenry. This in turn opened the door to intellectual ideas and theories critical of or different from Western liberal ideology, which then began to gain legitimacy. This openness and appreciation for different ideas is what created space for *real* intellectual diversity in American universities and colleges. HB 151 would actually *reverse* this progress and impose a regressive intellectual orthodoxy, taking us backward to the early 19th century, not forward into the 21st.

I now turn to my expertise as a legal educator. Students come to law school for many reasons, but they all share a desire to solve difficult problems. To do so, they must be able to identify and assess problems so they can devise effective and lasting solutions. In fact, the entire first year of law school is spent on learning and mastering the fundamentals of the American legal system, fundamentals that are rooted in classical liberal principles involving, for example, individual rights, rights and obligations between citizens, due process, and political equality. This required curriculum equips law students with a problem-solving toolkit stocked with baseline understandings of what the law is and how it works. Students then

study more specific legal subjects and problems. For example, they might take corporate law, family law, criminal procedure, and critical race theory, among other courses. In all of these, students learn the law and how it structures and orders American work, life, economics, and society in various and specific contexts – from how corporate minority shareholders protect and enforce their rights to how child custody determinations are made to how the constitution ensures procedural integrity in criminal proceedings to how race impacts and is impacted by law and society.

In our classrooms, students not only learn to master concepts foundational to specific legal subjects but also explore those concepts through good faith engagement with the material, their peers, and their professors. In my CRT class, for example, my students learn the basic and different methods of analysis that scholars have developed over several decades to better understand the complex causes and conditions of racial inequity and inequality. These are not “specific controversial ideas or concepts” - these are rigorously vetted ideas and documented facts. We study how legal doctrines, policies, and ideas have tried to address the conditions of inequality. Based on the data and evidence, traditional laws and policies centered on Western liberal concepts do not seem to have meaningfully solved these entrenched problems. What we study in CRT is why and how this is the case, and whether there are different (and often related) ideas, doctrines, and policies that might help to address them more effectively. To be clear, my students in CRT are not required to adopt or agree with the tenets of CRT, any more than my Contracts students are required to adopt or agree with the tenets of contract law. They are, however, required to master the fundamental concepts of the respective subjects, and demonstrate an ability to engage and apply those concepts dexterously in different contexts and settings. The cognitive and intellectual skills students gain through this process enable them to more effectively represent their clients. This kind of learning, no matter the subject, can be difficult and unsettling – just ask any student from my Contracts *or* CRT classes. But it is necessary because it helps them develop their ability to identify and analyze difficult legal and social problems and, consequently, to better serve their clients and society.

HB 151 if passed would take away my ability as an educator to continue to serve our students, and teach them to be better thinkers, problem solvers, and, in my case, better lawyers. Our students, and indeed all of Ohio’s citizens, deserve better. For this and all the foregoing reasons, I oppose Substitute House Bill 151. Thank you for your time and consideration.

Sincerely,
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