

SB 83 Redline Summary

Proposed Changes to Unconstitutional Curricular Bans

1. **Replacing the term “inculcate” (lines 782-85).** Section 3345.0217 states that public institutions of higher education must adopt the following policy:
 - (4) Affirm and declare that faculty and staff shall allow and encourage students to reach their own conclusions about all ~~controversial~~ beliefs or policies and shall not seek to ~~inculcate~~ **compel students to express personal agreement with or opposition to** any social, political, or religious point of view.”
2. **Non-credit earning programs or training courses (lines 766-74).** Section 3345.0217 requires that “the board of trustees of each state institution of higher education shall adopt a policy that requires the institution to do all of the following...” The language with our redline is as follows:
 - (B)(1) Prohibit any mandatory ~~non-credit earning~~ programs or ~~non-credit earning~~ training courses regarding diversity, equity, and inclusion, unless the institution receives an exemption under division (C) of this section for a diversity, equity, and inclusion program or training course that is required to do any of the following:

Proposed Changes to Political and Ideological Litmus Tests

3. **Prohibiting political litmus tests (lines 815-20).** SB 83 states that public institutions of higher education must adopt the following policy:
 - (8) Prohibit political and ideological litmus tests in all hiring, promotion, and admissions decisions, including diversity statements and any other requirement that applicants describe their commitment **or opposition** to a specified concept, specified ideology, or any other ideology, principle, concept, or formulation that requires commitment **or opposition** to any controversial belief or policy;

Proposed Changes to Prohibition on Compelled Speech

4. **Mission statement requirement prohibiting compelled speech (lines 732-34).** In section 3345.0216, SB 83 requires: “Each state institution of higher education, as defined in section 3345.011 of the Revised Code, shall incorporate all of the following statements into the institution’s mission statement...” The provision with our redline states: “The institution declares that its duty is to ensure that, ~~within or outside the classroom,~~ the institution shall not require **students or faculty to express personal**

agreement with positions they do not hold, ~~favor, disfavor,~~ or prohibit protected speech or lawful assembly.”

Proposed Changes on Academic Freedom

5. **Prohibition assessing applicant’s views in hiring, promotions, or admissions process (lines 826-29).** SB 83 states, with our redline, that public institutions of higher education must adopt the following policy:

(10) Affirm and declare that the institution will not use a diversity statement or any other assessment of an applicant's political or ideological views in any hiring, promotions, or admissions process or decision; **however, nothing in this section shall be construed to limit or restrict the academic freedom of faculty or to prevent faculty members from teaching, researching, or writing publications about diversity, equity, inclusion, patriotism, or other topics, and nothing in this section prohibits an institution from considering, in good faith, a candidate’s scholarship, teaching, or subject-matter expertise in their given academic field.**

6. **Caveat for classroom instruction (lines 892-95).** We propose replacing lines 892-895 with the following:

(E) Nothing in this section, and no institution policy, or institution employee, shall limit the expressive rights and academic freedom of an instructor of an institution to do any of the following:

(a) Conduct research, publish, lecture, or teach in the academic setting.

(b) Require students to participate in instructional exercises with legitimate pedagogical purposes that involve exploring or arguing for or against any idea.

(c) Speak publicly as a private citizen on matters of public concern.

Proposed Changes to DEI Programs and Trainings Exemption

7. **Exemption from (B)(1) requirement regarding non-credit earning programs or training courses (lines 848-84).** SB 83, with our redline, states:

(C)(1) Prior to the initial offering of a non-credit earning diversity, equity, and inclusion program or training course, a state institution of higher education shall request from the chancellor of higher education an exemption for that program or training course from the prohibition prescribed in division (B)(1) of this section.

The request shall include all of the following:

- (a) The specific law, licensure requirement, accreditation, grant, or cooperative agreement at issue;
- (b) The specific language in the law, licensure requirement, accreditation, grant, or cooperative agreement that requires the training;
- (c) A detailed description of the **non-credit earning** diversity, equity, and inclusion program or training to be taught, including any materials that will be used;
- (d) The specific population of individuals who will be mandated to take the training;
- (e) The number of times the training is expected to be offered on a six-month basis;
- (f) An estimate of the cost of the program or training; **and**
- (g) ~~In the case of an exemption sought for an accreditation, proof that alternative accreditation has been researched and evaluated. An alternative accreditation is an accreditation that would obtain the same or similar results for the institution while not requiring a diversity, equity, and inclusion program or training.~~ In the case of an exemption sought for an accreditation, proof that the institution received analysis from its general counsel's office or the attorney general's office regarding the necessity of complying with the accreditation requirement and whether there are grounds to challenge the requirement through available mechanisms, including legal challenges.

Other Important Proposed Changes

8. Who defines Academic Freedom. (lines 1128-36). SB 83 states:

(E) The department chairperson, dean of faculty, or provost of a state institution of higher education may require an immediate and for cause post-tenure review at any time for a faculty member who has a documented and sustained record of significant underperformance outside of the faculty member's annual performance evaluation. For this purpose, for cause shall not be based on a faculty member's **allowable protected expression** or **exercise** of academic freedom **as defined by the state institution of higher education or Ohio law**.

9. **Syllabi (lines 665-67)**. SB 83, with our redline, requires public institutions of higher education to make syllabi “for each undergraduate course it offers for college credit ~~publicly~~ available by doing ~~either of~~ the following...”

- **Student Accessibility (lines 656-64)**. Syllabi access should be restricted to students determining whether to take the class. SB 83 states:

(2) "Syllabus" means a document produced for students by a course instructor that includes all of the following:

(a) The name of the course instructor;

(b) A ~~summarycalendar~~ for the course outlining what materials and topics will be covered and when during the course they will be covered;

(c) A ~~summarylist~~ of any required or recommended readings for the course; ~~and~~

(d) The course instructor's professional qualifications.

- **Limiting student accessibility to the first day of the enrollment period through the last day of the add/drop period (lines 665-88)**. The bill provides two options for making syllabi publicly accessible. We suggest one option that allows for only student access, starting at least one week before the first day of open enrollment and until the last day of the add/drop period. This ensures clarity and uniformity for public institutions of higher education.

We recommend the following changes to lines 665 - 688:

(B) Each state institution of higher education shall make a syllabus for each undergraduate course it offers for college credit ~~publicly~~ available by doing ~~either of~~ the following:

~~(1) Ensuring that each course instructor posts a syllabus on a publicly accessible web site. Each such web site shall include the following information:~~

~~(a) The course instructor's professional qualifications;~~

~~(b) The course instructor's contact information;~~

~~(c) The course instructor's course schedule;~~

~~(d) The syllabus for each course the instructor is currently teaching, which shall be accessible by link or download through the web site.~~

(2) Posting each course's syllabus on the institution's **Publicly student** accessible web site. Each syllabus shall be all of the following:

(a) Accessible from the main page of the state institution's web site by use of not more than three links;

(b) Searchable by keywords and phrases;

(c) Accessible to **students during the entirety of the open enrollment period and until the final day a student can add or drop a course for the semester or during the academic term in which the course is offered. ~~the public without requiring user registration of any kind.~~**

(C)(1) Each state institution shall make a syllabus available in accordance with division (B) of this section not later than **one week before** the first day of **enrollment for** classes for the semester or academic term in which the course is offered.

- **Syllabi retention policy (lines 689-95).** SB 83 states: “For any syllabus posted under division (B)(1) of this section that is no longer used, the course instructor shall, upon request, make that syllabus available for not less than two years after that syllabus was posted under that division.” It also states: “Any syllabus posted under division (B)(2) of this section shall remain posted on the state institution's website for not less than two years after it was first posted.” We suggest removing these retention requirements from the bill because of its potential to create a rigid bureaucracy and to chill academic freedom if faculty feel they will face long-term political scrutiny or hostility over what and how they teach.

10. **Required Policies.** Section 3345.0217 requires that “the board of trustees of each state institution of higher education shall adopt a policy that requires the institution to do all of the following...”

- **Prohibition on institutional support or opposition to particular ideas (lines 795-803).** We would swap out subsection 6 replacing it with language that has been enacted in other campus free speech laws — for example, legislation enacted in Alabama. Under our replacement language, public institutions of higher education must adopt the following policy:

(6) Declare that it will strive to remain neutral, as an institution, on the public policy controversies of the day, except as far as administrative decisions on the issues are essential to the day-to-day functioning of the university, and that the institution will not require students, faculty, or staff to publicly express a given view of a public controversy.

- **Prohibition on an institution requiring support or opposition to particular**

ideas (lines 804-14). Public institutions of higher education must adopt the following policy:

~~Divisions (B) (6) and (B) (7) of this section do not apply to the exercise of professional judgement about whether to endorse the consensus or foundational beliefs of an academic discipline, unless that exercise is misused to take an action prohibited in division (B)(6) of this section.~~

If our change to (B)(6) is made above, the language directly above should be deleted.

- **Seeking diversity of viewpoints through invited speakers (lines 836-38).** SB 83 states, with our redline, that public institutions of higher education must adopt the following policy: “(12) Affirm and declare that the institution will seek out invited speakers **for events sponsored by the institution** who have diverse ideological or political views.”

11. Sanctions for violating “intellectual diversity” rights of another (lines 901-05). Our redline to section 3345.0218 is as follows:

(B) Each state institution of higher education shall implement a range of disciplinary sanctions for any administrator, faculty member, staff, or student who **intentionally, materially and substantially disrupts another’s exercise of expressive rights, -interferes with the intellectual diversity rights,** as defined in **section 3345.0211** and prescribed under section 3345.021**27** of the Revised Code, of another.

12. Student evaluations of faculty members (lines 1041-46; 1089-91). Section 3345.451 states:

(B) The chancellor of higher education shall develop a minimum set of standard questions for use by state institutions of higher education in student evaluations of faculty members. ~~The questions shall include the following:~~

~~“Does the faculty member create a classroom atmosphere free of political, racial, gender, and religious bias?”~~