

Testimony of Hillel Gray, Ph.D.
Before the House Higher Education Committee
Rep. Tom Young, Chair June 13, 2023

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

Thank you. My name is Hillel Gray, I teach for the Department of Comparative Religion at Miami University. I am testifying as a private citizen, an interested party, on the Intellectual diversity provisions of Substitute House Bill 151 (3345.0217 and 3345.0218).

I believe that I understand much of the perspective(s) of the bill's sponsors. Why? Before I shifted into academia as a third career, I worked on industrial chemical risks as the policy director of the National Environmental Law Center. We helped negotiate and pass pollution prevention laws in the states and at the federal level. Our situation was analogous to the HB 151 sponsors who are concerned with higher education in Ohio:

1. We were trying to change major industries;
2. We thought that lawmakers and activists on the left had pushed things so far in one direction that it became counter-productive and flawed in its principles;
3. We wanted to change business culture, the way industry handled chemical risks;
4. We had new metrics and
5. Specific concepts, for this purpose; and
6. We believed that transparency, public access to data, would create a market-based dynamic to change the industry.

My sense is that the bill sponsors...

1. Seek to change a valuable, high reputation industry (i.e., universities) in our state;
2. Think DEI has gone too far with its race and gender principles;
3. Believe in changing the way universities handle diversity;
4. Have new metrics and
5. Specific concepts, for this purpose; and
6. Seek transparency, such as with syllabi, as a market-based force for good.

Yet there's an important twist to this comparison. In a few states, we had the votes to win a groundbreaking environmental law in the legislature (as do the sponsors of HB 151).

However, we very much needed the industry – defense contractors, small business, even the chemical manufacturers – to work with us, work with the government, in changing their institutional culture on the inside. If we came in as heavy-handed regulators, it would have been a mess.

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While HB 151 sponsors have the legislative votes, I am concerned that you won't reform or revolutionize the public university culture without more of their buy-in. If you come in as heavy-handed regulators, your legacy and the legacy of this bill could be a divisive mess.

In the rest of this testimony I share my approach to intellectual diversity, but my real point is that it would be to your benefit to slow down with the intellectual diversity and philosophically innovative aspects of this bill, bring the university administrators and faculty to the table, and see if they are willing to negotiate bill modifications that they would implement for their industrial culture that they would in good faith.

Let me tell you why I care about viewpoint diversity – and thus why I recommend modifications to the bill's intellectual diversity provisions.

I study some Christians with unpopular anti-homosexual, anti-transgender views. Some years back (2011), with the support of my department, I planned to invite them to my religious studies class, so I could interview them in front of the students. Our plan was leaked to the public and, within a few weeks, my department and I were pressured to not invite these anti-LGBT Christians.

In theory, I had the “academic freedom” to invite them, but as untenured faculty, I would have had to risk my job to bring these unpopular Christians into my classroom.

This incident did not stop me from studying or teaching about controversial Christians and their views. Indeed, during all the drama, I had a chance to explain my approach to the University President and to a packed auditorium. Since then, I've continued to research and teach about unpopular religious groups.

I train Ohio students to listen non-judgmentally to Christians and Jews with unpopular, divergent religious views and practices. Whether conservatives or liberals, my students learn enough “impulse control” to interact in a nonpartisan manner with Christians and Jews who they might otherwise resent, condemn, or even hate.

Why all this effort? First, because dealing with viewpoint diversity is a skill worth cultivating. Second, because Ohio university staff and students can do better at respecting, hearing, or at least disattending divergent opinions. Case in point:

At Miami University, there were reports of politically conservative students who were ill-served by fellow students and residence staff because of their (apparently unpopular) support for Donald Trump. Fortunately, the Office of Residential Life stood up for viewpoint diversity and made it a year-long theme in their programming. They even asked me – and students I’ve trained – to give a professional development workshop on viewpoint diversity.

So, when I look at the intellectual diversity sections of HB 151, I wonder whether it will help professors like me.

Here are my specific questions about Substitute HB 151 and intellectual diversity:

1. The term “intellectual diversity rights” (line 903) sounds as if the legislature seeks to create a new category of claimants, grievance procedures, and victims. It is vague, ill-defined, and implies an unfunded mandate that undermines your purpose here.
 - a. Rather than set up a grievances regime against employees or even students, would more be gained by creating incentives for the free market of ideas? Before creating a regulatory apparatus, should we start with incentives and metrics that are tailored to listening and engagement with divergent views?
 - b. Would the legislation prompt students to act as if their every opinion has an “intellectual diversity right” to a grade? Would this “right” prompt students to replace evidence-based intellectual reasoning with a kind of ideological or moral relativism?
2. Wouldn’t it be best for viewpoint diversity efforts to be led by people trained in all aspects of diversity and inclusion at the university? Moreover, you may want to consider whether viewpoint diversity training be mandatory. If liberals or leftists make up a large proportion of faculty at public universities in Ohio, shouldn't they be mandated to learn ways to optimize viewpoint diversity?
3. It strikes me as unhelpful to add viewpoint diversity to student course evaluations (line 788), which are already deeply flawed instruments.

4. The bill (Sec. 3345.0217) requires each public university to declare that it will not oppose “any controversial belief or policy” (B6, lin 796) or discourage students from any “ideology, political stance or view of social policy.” (B7, line 804) Does this mean no discouragement of even abhorrent or anti-American beliefs?
5. By stipulating that each university “shall not seek to inculcate any social, political, or religious point of view” (line 785), would it forbid any moral education, e.g., on democracy, free enterprise, and viewpoint diversity itself? This would seem to stifle viewpoint diversity among the very people who are asked to promote it.
6. I’m puzzled: how can the law promote intellectual diversity and, at the same time, restrict certain “concepts” in section Sec. 3345.87 (lines 1318-1345).
 - a. The bill asks each university to declare that it will “educate students by means of free, open, and rigorous intellectual inquiry to seek the truth” and at the same time, it steers people away from presumably undesirable views.
 - b. For example, the legislation deprecates the view that moral worth is determined by gender (1332-1333). What message does this send to Orthodox Jews who believe women are at a higher moral plane, which is why they are given fewer religious duties? Or to Orthodox Jews who believe, conversely, that men are on a higher level because of their religious duties?
 - c. What is the legislative intent of a bill that both promotes intellectual diversity and then seeks to regulate unpopular views about race and sex?

There are specific steps that Ohio public universities can take, through teaching and curricula, institutional offices, student programs, and established diversity and inclusion programs, to integrate and promote viewpoint diversity. I am concerned that this legislation could do more harm than good in promoting free inquiry, nonpartisan conversations, and constructive disagreement. Is it wiser to open up the marketplace of ideas, or to regulate and thereby stifle how we interact with unpopular, divergent views?

Thank you for your consideration.