



AMERICAN ATHEISTS

November 14, 2023

The Honorable Representative Tom Young
Chair, House Higher Education Committee
Ohio Statehouse
1 Capitol Square
Columbus, Ohio 43215

Re: OPPOSITION for SB 83, Testimony from American Atheists in opposition to legislation that would promote censorship in higher education

Dear Chairman Young and Members of the House Higher Education Committee:

American Atheists, on behalf of its more than 2,000 constituents in Ohio, writes in opposition to SB 83, a misguided bill that would harm higher education in Ohio. While this bill purports to promote “intellectual diversity,” by limiting discussion on any “controversial belief or policy,” it will do just the opposite—undermine academic freedom and stunt the intellectual and social developments of students. This ambitious bill would regulate the speech of public universities and professors in a wide array of areas, including diversity, social justice, systemic racism, sustainability, gender identity, equity, and inclusion. The only thing these ideas have in common is that they are politically taboo for the party running this chamber. This is a textbook example of viewpoint discrimination, and Ohio will struggle to defend it in court, particularly since similar censorship laws have already been struck down for violating the First Amendment. Please, save everyone the trouble and just kill this staggeringly unconstitutional bill in its infancy.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for religious equality and free speech, American Atheists objects to efforts to censor history and undermine academic freedom.

SB 83 would mandate that public college and university professors “allow and encourage students to reach their own conclusions about all controversial beliefs or policies and shall not seek to inculcate any social, political, or religious point of view.” Further, it would require these institutions to discipline any

member of staff that fails to adhere to these vague mandates. In practice, the impact of bills like SB 83 filed around the country goes beyond just the text of each bill. These vague and punitive bills create fear among well-meaning educators and employees. For example, a Texas administrator, fearing being penalized under similar legislation recently passed in his state, instructed teachers that they must teach 'both sides' of the Holocaust.¹ At the same time, these bills empower those with extreme agendas to push to ban books² and even ban Black History Month.³ Across the country, state efforts to dictate what matters can be or cannot be discussed in classes have driven out veteran educators and administrators.⁴ The environment created by bills similar to SB 83 chills speech, impedes education, and is harmful to students and schools, ultimately undermining the long term prosperity of Ohio.

Recent survey research⁵ confirms that a broad bipartisan majority of Americans:

- Want students to learn a thorough, accurate, and fact-based account of American history;
- Trust teachers to thoughtfully teach the hard parts of history;
- Believe racism is widespread and harmful to society and that schools have a responsibility to teach students that racism is wrong;
- Want to reduce political division; and
- Want schools to ensure that all students feel they belong and see themselves reflected in the curriculum.

Teaching about the issues of the day, including matters that actually affect the lives of students and their families, can be an important way to invest students in their education and to connect the subjects they are studying to issues of significance in our nation's public discourse. Teachers, especially in areas like civics and history, have a responsibility to teach critical thinking and to prepare students for full participation in our society and democracy. Deep engagement with so-called controversial subjects, including legislation or policies that affect the education of students themselves, can be an important way to encourage democratic participation and to bring these sometimes-abstract subjects to life.

¹ NBC Universal News Group. (2021, October 15). "Southlake School Leader tells teachers to balance Holocaust books with 'opposing' views." NBCNews.com. Retrieved from <https://www.nbcnews.com/news/us-news/southlake-texas-holocaust-books-schools-rcna2965s/southlake-texas-holocaust-books-schools-rcna2965>.

² Gross, J. (2022, January 27). "School Board in Tennessee bans teaching of holocaust novel 'maus'." The New York Times. Retrieved from <https://www.nytimes.com/2022/01/27/us/maus-banned-holocaust-tennessee.html>.

³ Crain, T. P. (2022, February 4). "Ohio officials receive complaints about Black History Month amid CRT debate." AL.com. Retrieved from <https://www.al.com/news/2022/02/Ohio-officials-receive-complaints-about-black-history-month-as-state-debates-crt-legislation.html>.

⁴ NBC Universal News Group. (2021, July 13). "Critical race theory battles are driving frustrated, exhausted educators out of their jobs." NBCNews.com. Retrieved from <https://www.nbcnews.com/news/us-news/critical-race-theory-battles-are-driving-frustrated-exhausted-educators-out-n1273595>.

⁵ *Minimizing Misinformation About History and Social Studies*. Learn From History. (2021, September 24). Retrieved from <https://learnfromhistory.org/>.

States that have tried to implement similar bills prohibiting discussion of “controversial beliefs or policies” have found themselves tied up in litigation. In Florida, the Eleventh Circuit Court of Appeals left a preliminary injunction in place for HB7, the so-called “Stop W.O.K.E. Act”. Preventing it from being enforced in higher education. The original lawsuit argued that the HB7 violated the First and Fourteenth Amendments by imposing viewpoint-based restrictions on educators, as well as the Equal Protection Clause because the bill was enacted with the intent to discriminate against Black educators and students.⁶ SB83 has substantial overlap with HB7, and passing legislation that will certainly be struck down should not be a priority for Ohio lawmakers.

The primary justification asserted for this legislation is to prevent public institutions of higher education from inculcating students with specific beliefs. Whatever persuasive power this justification may have when it comes to K-12 education, it is completely irrelevant to higher education, where students are adults who have already received a basic education. Rather than education, this bill promotes the concept of “intellectual diversity,” defined as having a “multiple, divergent, and varied perspectives on an extensive range of public policy issues.” However, the bill fails to explain why this is, by itself, a positive thing. There is little value in promoting a multitude of uninformed opinions, immune to challenge and criticism. Perhaps lawmakers believe that in this environment fringe conservative ideas would flourish, free from academic scrutiny. But lawmakers cannot mandate the validity of their beliefs by law—all they can do is undermine higher education, which is all that SB 83 would accomplish.

If you have any questions regarding American Atheists’ opposition to SB 83, please contact me at rhofmann@atheists.org.

Sincerely,



Rob Hofmann
State Policy Manager
American Atheists

⁶ Legal Defense Fund. (2023). Eleventh Circuit Affirms Decision to Preliminarily Block Unlawful “Stop W.O.K.E.” Censorship Law. Website, Mar. 16, 2023. Retrieved from <https://www.naacpldf.org/press-release/eleventh-circuit-affirms-decision-to-preliminarily-block-unlawful-stop-w-o-k-e-censorship-law/>.