

April 16, 2023

Dear Ohio Senators,

I write as Geoffrion Family Director of the Miami University Humanities Center to offer testimony on Senate Bill 83. During my 28 years on the Miami faculty, I have received the university's highest distinction for teaching and its highest faculty honor, the Benjamin Harrison Medallion for outstanding for research, teaching, and service. In my 12 years as Director of the Humanities Center, I have built 15 new programs serving thousands of faculty, students, and community members annually, and I have raised \$2.75M in new endowments in support of student, faculty, and community programs. The center was recently recognized as an "Oasis of Excellence" by the American Council of Trustees and Alumni, whose director, Michael Poliakoff, was among the five experts who provided initial testimony in support of Senate Bill 83.

I write today, for the first time in my career, to express deep concern about this bill. If it is signed into law, it will badly damage public higher education in the State of Ohio. It will drive away talented faculty, diminish the reputation of our leading institutions, decrease essential revenue from out-of-state students, and force institutions to divert resources from instruction to wasteful administrative oversight. But the worst part of this legislation lies elsewhere—in its approach to the management of speech on campus. The bill establishes a dangerous new precedent in which the legislature would begin to dictate the details of university syllabi and conversation. This approach is authoritarian by nature. It would be noxious to the founders of this republic, and it should be deeply disturbing to all who believe in free speech and limited government.

Before I explain these concerns in more detail, I want to be clear in stating my strong support for the ideal of free speech expressed in this legislation. I am proud that my institution has signed onto the "Chicago Principles" of free speech on college campuses. My work has always been guided by such principles. The first course I taught at Miami was a seminar on free speech with readings from Plato, John Stuart Mill, John Milton, Gary Wills, and the complete texts of seven U.S. Supreme Court decisions. Like my colleagues, I am committed to teaching challenging and meaningful questions with very high expectations for serious thinking and absolutely no expectation of ideological conformity. Thinking well in humanities disciplines is not a matter of political belief; it is a matter of asking good questions, marshalling evidence, and writing with clarity and force.

I would ask the supporters of State Bill 83 to reexamine to the Chicago Principles, which have enjoyed bipartisan support and have been promoted especially by right-leaning groups, including NCTA. The Chicago Statement explicitly rejects the approach put forward by this legislation. It states *“that education should not be intended to make people comfortable, it is meant to make them think. Universities should be expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish in an environment of the greatest freedom.”*¹

Moreover, the Chicago Statement avers that *“the University has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.”* This is precisely such a time, and I offer the following comments in the spirit of this solemn responsibility:

- SB83’s vague language on “controversial topics” contradicts the primary purpose of higher education, which as the Chicago Statement notes, is to create “conditions within which ... strong *disagreement* can flourish.” In other words, encouraging meaningful inquiry into “controversial topics” is the most important thing a university does. SB83 demands that universities affirm and guarantee that they will not “endorse, oppose, comment, or take action, as an institution, on the public policy controversies of the day ... such as climate change, electoral politics, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion.” The vagueness of multiple key terms make this provision dangerous: “controversial topics,” “university,” and “endorse ... take action.” The phrase “take action” could entail almost anything done by a university or its departments. The center that I direct organizes annual campuswide programs on controversial topics such as artificial intelligence, human migration, and the ethics of medicine. We were recognized by ACTA precisely for leading inquiry into these “urgent public challenges.” Under SB83 we would struggle to continue this work, especially if our work constitutes “taking action” on behalf of “the university.” It is important to recognize that *all* issues of social consequence are “controversial issues.” Seemingly abstract biological questions about the nature of life can explode into political controversy, as happened in the famous case of Terry Schiavo. Free speech (the stated objective of this bill) would seem to be a noncontroversial value—but it is a constant subject of controversy in the U.S. Supreme Court. It is difficult for a university to conduct its basic business in a climate in which everyone fears discipline for touching on a topic that someone finds “controversial.”
- SB83 requires universities to “implement intellectual diversity rubrics” for course approval, student learning outcomes, curricular requirements, common reading programs, and other administrative duties. The vagueness of the term “intellectual diversity” seems deliberately intended to create an endless list of possible causes for punishment or dismissal. No syllabus, no reading program, no speaker series can reflect all perspectives. Thus, as with the “controversial topics” provision, this legislation creates an Orwellian structure in which any intellectual effort, regardless of political or disciplinary orientation, would be subject to discipline.

- SB83 mandates a dramatic and inflexible increase in faculty workloads. This change will put Ohio's leading institutions out of step with national standards, will worsen the quality of classroom instruction, and will drive talented faculty away to other states. As someone who works 50-60 hours per week, it is hard to imagine a workload increase of 125% to 175%.
- SB83 establishes intrusive new regulatory structure that threatens faculty with censure, punishment, or dismissal for doing ordinary and unavoidable elements of their jobs. One of the most disturbing features of the bill is the required online posting of annual faculty teaching evaluation scores. I cannot think of another industry in which personnel matters are published for the general public. Indeed, it is my experience in supervising staff that personnel records are treated confidentially. Will the state next publish the performance reports of all state employees? The proponents of this bill seem to believe this measure will discipline a particular type of faculty member, but it could be mobilized by partisans of *all* stripes in chilling ways. It is likely to result in less, not more, "intellectual diversity." More important, publication of performance reports is likely lower academic rigor and standards across the state.
- By requiring the online posting of speaker fees, SB83 will make it nearly impossible to bring high profile speakers to our campuses. In my current role, I have organized 100 such visits over the past 12 years. I frequently negotiate with speaker agents for weeks before settling on a price that is a fraction of the initial "sticker price." In recent conversations, several prominent speakers agencies told me they would "never" agree to this provision. Not only would it violate their clients' privacy but it would undermine their ability to negotiate with other institutions.
- The post-tenure reviews mandated by SB83 are redundant and will dramatically increase the administrative burdens of universities for no reason. Faculty at my university under rigorous, annual review, before and after tenure. My annual activities report averages 20 pages in length and takes about 2 days to complete. Salary improvements are almost entirely based on the review this report. Like all instructors at my institution, I am evaluated every semester by every student I teach. The evaluations are extensive, process-controlled, and anonymous. They include multiple choice questions and extended response answers where students are free to express concerns about ideological bias. The overbearing new regulations set in place by this bill will bury departments in review and reporting, costing millions, and significantly detracting from the mission: teaching students.
- The provisions on diversity equity and inclusion in this bill represent a significant departure from Governor DeWine's "Plan of Action to Advance Equity" and with the work of many State of Ohio administrative offices. Improving the diversity of my institution is crucial to our ability to attract top students and provide the kind of education that twenty-first century employers demand. To be competitive in the

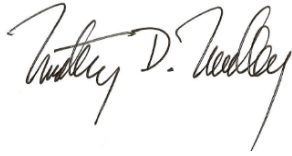
workforce student must learn cultural competence, the ability to understand and work with a wide diversity of people.

- My institution depends heavily on revenue from out-of-state students. When a legislature goes to war with its own state universities, the struggle is of high interest to students and parents around the country. As faculty depart for normal teaching conditions, national rankings fall, and media attention raises concerns about intellectual climate, many prospective students will look elsewhere.
- SB83 attempts to correct a serious problem in our society: the lack of historical knowledge among college students. I could not agree more with this assessment. It is important to note, however, that the primary cause of this problem was the enactment of prior legislation (under Chapter 3333) that requires Ohio universities to accept AP credit in place of college courses. Not only must we exempt students from once-required courses in our core curriculum—the “Miami Plan”—but we must *also* give them transcript credit for completing an “equivalent” college-level course. This charade is among the most significant problems in higher education in our state and across the nation. In the case of US history, the problem is severe, because most high school students take AP US History in 10th grade. As the father of a child who took AP US History at Ohio’s top public high school from its most revered instructor, I saw little relationship between the work my son did and the work demanded in a 100-level Miami University history course. Moreover, 15-year-olds lack the intellectual maturity to think historically in the way that we would expect in a college history class, and they lack the perspective to integrate the subject matter into their experience of the world.
- SB83 attempts to remediate this genuine problem—the lack of historical knowledge among Ohio college students—not by allowing universities like Miami to restore the thoughtful, nationally recognized curriculum we developed long ago, but instead through yet another state intrusion: this time a required 3-credit course in American history or American government, with a set list of required texts and a mandatory proficiency exam. As a faculty member in American studies, I am thrilled at the prospect that our students will take more US history and politics courses. A significant part of my work is to encourage this very outcome. And I have often taught the very texts that are mandated in SB83 and plan to do so many more times. However, I find it worrying in the extreme that the legislature wishes to get into the business of writing college syllabi. I hope the proponents of this legislation will recall that the nightmare vision of the great conservative British writer, George Orwell, is precisely this: that a central government begins to dictate the specific ideas that can be known by the citizenry.

I ask the Senate to reflect on the American founder most associated with education. Thomas Jefferson created lasting systems of higher education, and he wrote voluminously about his vision of the ideal education. But Jefferson resisted the impulse to dictate the contents of syllabi. The specific content of classes, he wrote, “will be better left to the professors” because “none of us [in government] are so much at the heights of sciences in the several branches as to

undertake this.”ⁱⁱ If a knowledge of American civics teaches us anything, it is to avoid a future in which a distant legislature attempts to micromanage the work of highly educated and dedicated professionals.

Sincerely,

A handwritten signature in black ink that reads "Timothy D. Melley". The signature is written in a cursive style with a large, stylized initial 'T'.

Timothy Melley
Geoffrion Family Director of the Humanities Center and Professor of English

ⁱ <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

ⁱⁱ Thomas Jefferson. "Letter to James Madison." Monticello: Feb. 1, 1825.