

An open letter to the Ohio House Workforce and Higher Education Committee:

I am a member of the teaching faculty of Ohio State University's College of Pharmacy and a researcher of pharmacy education, including many investigations relating to student wellness, student persistence in college, student access to high impact learning such as research apprenticeships and community-engaged learning, academic discourse, and career readiness through entrustable professional activities: all of which are interconnected with Diversity Equity and Inclusion. I am voicing my strong opposition of SB-1 (and its verbatim copy HB-6).

Ohio Senate Bill 1 introduced to the 136th General Assembly titled "The Advance Ohio Higher Education Act" in summary: contradicts itself to the point of being unenforceable and will inflict significant barriers on higher education to recruit the most capable students/faculty and impede equal access to educational/training opportunities. As demonstrated by the overwhelming opposition of SB-1 by Ohioans from every corner of the state, progressing SB-1 and its near verbatim copy HB-6 does not reflect the will of your constituents and directly conflicts many of the Diversity Equity Inclusion policies members of the committee have authored.

Defining Diversity, Equity, and Inclusion

Who is the more capable runner: the one who finished the race first or the one forced to carry a 50 lb. pack who still finished just a second behind the first runner?

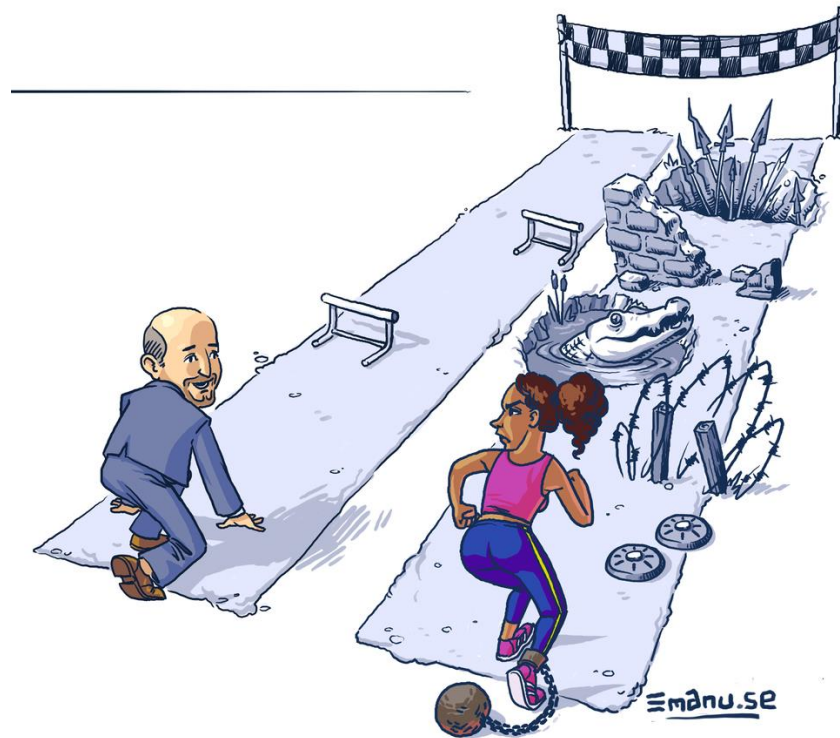
If **Lt. Governor Jim Tressel** was still coaching OSU football, he would be joining the vast majority of athletic directors and Ohioans who agree the 2nd runner proved to be the more capable runner despite coming in 2nd place because they overcame significant challenges that impacted how quickly they ran. If the 2nd runner was unburdened, it's clear they would have shaved a second off their time and it would be to the benefit of athletic teams to recruit this runner and alleviate them of their 50 lb. pack.

Diversity, Equity, and Inclusion (DEI) aims to do just this through inclusive meritocracy: recognize that diverse applicants come with burdens of differing impact to their achievements (packs of different weight), and promote inclusive environments that minimize barriers and maximize opportunities for employee success (remove weights from their packs), to achieve the best outcomes in every employee that result in equity between the most and least burdened employees (all runners performance matches their ability). An exclusive meritocracy only looks at the merits without accounting for headwinds, such as "color blind" policies that refuse to acknowledge the impact of racism on achievement, resulting in colleges/employers overlooking more capable applicants that would outperform the 1st place runner in an inclusive environment. There is still a lot of confusion over Diversity Equity Inclusion that will likely be exasperated during the current administration and there's a few points to highlight:

1. Burdens to achievement come in all different forms and a holistic hiring process attempts to recognize the most impactful headwinds for each individual. That includes a difficult home environment, lack of socioeconomic support, navigating infrastructures that are inaccessible to the disabled, overcoming racism and misogyny/transphobia/homophobia in the workplace, not having your religious holidays/accommodations recognized, obtaining care for children/elders, overcoming language/cultural barriers, and much more. It's not about choosing burden X over burden Y: if a candidate is a white cis-male but overcame financial and geographic barriers to achievement then those burdens will be recognized in a holistic review.

2. Recognizing a burden is not an automatic hire for that applicant. Applicants still need to be the most capable for the job after headwinds are accounted for (i.e. sitting at the starting line with a 50 lb pack would not result in that runner's recruitment on a Buckeye athletics team). With accusations of "token hires" rampant, students/employees from underrepresented groups should be assured that they absolutely were the most capable applicant, and they belong in the college/job they're in.

3. Diversity Equity Inclusion enhances success for every student/employee, regardless of how burdened/unburdened they are. 200+ formal research investigations and countless case studies from every industry have demonstrated that organizations that include diverse voices in leadership and decision-making are more adaptive to industry challenges and land on better outcomes faster than their homogeneous competitors. Inclusive practices not only support the most burdened employees but also alleviate burdens for everyone (i.e. able-bodied employees using the wheelchair ramp to push a cart inside their building). The argument against "going out of our way to accommodate a few" doesn't hold up in these scenarios; the success of the organization leads to expansion to more opportunities and success for everyone, not just the most burdened.



“What’s the matter?
It’s the same distance!”

Representative Josh William’s Example

Let’s take an example from **Ohio Representative Josh William’s** previous testimony: Representative Williams overcame significant headwinds in navigating the challenges of homelessness, teen parenthood, a disabling back injury, and exclusion from his peers from perceived tokenism. Despite these headwinds, Representative Williams scored in the top 85% of his LSAT. Now is it conceivable that if Representative Williams had the same privileges as I had: study time uninterrupted by arranging

affordable childcare, working part time to support a family, or managing chronic back pain and attending physical therapy sessions, but instead having the time/money to attend LSAT prep courses and attend study groups with classmates that don't have any doubt the somebody who looks like me can succeed in law- that Representative Williams might have instead scored in top 90% or 95%? Most Ohioans would agree yes: that Representative Williams overcame headwinds that impacted his achievement, not his capability. If we recognize that Representative Williams is a more capable lawyer than other applicants who scored an 85% without my headwinds, then choosing Williams over a less capable applicant who also scored around 85% is not lowering standards, diminishing merit, or making opportunities inaccessible but instead:

1. Gaging the full capability of applicants based off their merits accounting for a variety of headwinds.

A holistic reviewer would have recognized that Representative Williams would have scored even higher on the LSAT if his pack weighed the same as the majority of applicants.

2. Maintaining high standards within the institution. Just because Williams had all these headwinds didn't mean the university was going to accept him if he scored in the 50th percentile on the LSAT; everyone in his incoming class had to demonstrate they were the most capable applicants. While Williams continued to face prejudice from his peers in law school, the accusations of "token hires" are prevalent even in states that have banned race-based hiring for years; employees/students that have biases on who "belongs" in law find other excuses to justify Representative Williams' acceptance as being a "fluke" or "weaseled in" to their institution somehow. The solution to this bias, however, is not to be willfully ignorant of applicants' demonstrations of capability in overcoming headwinds, thereby reinforcing barriers to accessing opportunity, but to be transparent to incoming classes that they were deemed the most capable based on the merits they achieved and the headwinds they overcame.

3. Equalizing access to opportunity and enhancing intellectual diversity. In addition to Williams's headwinds being recognized by holistic admissions, there likely were other capable applicants that navigated teen parenthood, disability, or racism that were recognized for overcoming headwinds that contributed their intellectual diversity to the class/company and enhanced the success of all their classmates/coworkers in the process.

The Risk of Vague Terminology to Bipartisan-Supported Programs

"Sec. 3345.0217 [...] (b) A state institution shall not replace any orientation, training, office, or position designated for the purpose of diversity, equity, and inclusion that is prohibited under this division with an orientation, training, office, or position under a different designation that serves the same or similar purposes, or that uses the same or similar means."

This section of SB-1 is unenforceable because by most universities' definition of Diversity Equity Inclusion: all jobs in the university ultimately promote Diversity Equity Inclusion, while the bill drafters' definition of DEI as "division, exclusion, inequality" I can confidently say that I've never seen Ohio State spend even a dollar toward anything like that in all my years as an undergraduate, a PhD student, and eventually a faculty member. Diversity Equity Inclusion is more than just professional development trainings and reminding admissions committees of the burdens students carry that impede traditional measures of merit and **leaving Diversity Equity Inclusion programming so vaguely defined risks university administrators "over complying" to the bill to the point of removing many programs that have bipartisan favor and are often lifelines to student persistence.**

For example, if a college Diversity Equity Inclusion director started working in the dining hall preparing nutritious and affordable meals to the 23% of college students that deal with food insecurity or made sure all the dining halls have vegan (10%), Kosher (10-20%), and Halal (5%) options, that is an act of inclusion toward those students, that equitably improves student academic performance and enhances

the diversity of our campus: that is Diversity Equity Inclusion. If that director instead started working with campus parking and cleared the wheelchair ramps of snow and made sure handicap parking was accessible to the campus buildings, that is an act of inclusion for disabled students that equitably improves student academic performance and enhances the diversity of our campus. So why is it any different for Diversity Equity Inclusion directors to lead these initiatives from their offices, in addition to performing the federally required duties of Title IX case review? The same can be said about this committee's policies that TO BE CLEAR: I AM IN SUPPORT OF AND THIS IS NOT A JUSTIFICATION OF REMOVING WHAT WOULD BE LIFELINES FOR MANY OHIOANS.:

- **SB-1 Primary Sponsor Jerry Cirino's** efforts to create a 4-year degree pipeline for students of Lakeland Community College, including a \$1.4 million investment of taxpayer money toward [renovating an engineering building](#) that will make engineering training more inclusive to non-traditional community college students, equitably improving student success in engineering, and increasing the diversity of the engineering workforce to Ohioans that may not have demonstrated the traditional "merits" to attend a 4-year engineering degree program at an R1 research institute.
- **Committee Chair Tom Young's** efforts to [create village dissolution pathways](#) is an act of inclusion for Ohioans in underserved villages to have equitable access to services and increase the diversity of the larger community's voting pool.
- **Committee Vice Chair Kevin Ritter's** first policy releasing \$3.5M toward [repairing Lowel Dam](#) is an act of inclusion for Lowel Ohioans local to the Muskingum River to equitably access the electricity generated and birdwatching conservation, increasing the diversity of Ohioans power providers and recreation/tourism.
- **Ranking Member Beryl Brown Piccolantonio's** efforts to [maintain Judge Michael Holbrook's ruling that Governor Dewine unlawfully withheld COVID relief funds from Ohioans](#) is inclusive toward financially struggling Ohioans by equitably providing up to \$3,000 of relief funds and increasing the diversity of financially stable Ohioans.
- **Majority Whip Nick Santucci's** efforts to support Ohio workers by [allowing a state income tax deduction for overtime wages](#) would make wealth generation more inclusive to hourly paid workers, equitably improving the annual income of hourly paid workers, and increasing the diversity of the middle class as economic mobility increases in socioeconomically disadvantaged Ohioans.
- **Speaker Pro Tempore Gayle Manning's** efforts to require a [computer science course in every Ohio high school](#) would likewise be inclusive of high school students in under resourced schools to equitably improve participation/access to the computer science field and increase the diversity of the computer science workforce.
- **State Representative Michael Dovilla's** efforts release \$382 M to [improve transportation infrastructure](#) is an act of inclusion for Ohioans facing geographical barriers in southern parts of Strongsville and North Royalton and northern Medina County by equitably improving safety and access to Ohio's freeways and increasing the diversity of Ohio's mobile workforce.
- **State Representative Tracy Richardson's** efforts to [provide tax relief for significantly disabled veterans](#) would likewise be inclusive of disabled and veteran Ohioans to equitability decrease financial toxicities of healthcare and increase the diversity of homeowners to include more disabled and veteran Ohioans.
- **State Representative Marilyn John's** efforts to [create an Ohio Hay Directory](#) is an act of inclusion to Ohio's livestock farmers facing draughts by equitability improving access to hay and increasing the diversity of farming in Ohio.

- **State Representative Josh Williams's** previous SB-1 testimony not only [called for fixing the systems in place that put different groups at a disadvantage](#), but also recently introduced legislation to [close a current loophole in Ohio's Sex Offender Registration and Notification \(SORN\) laws](#) that are inclusive to children and gender minorities that are disproportionately targeted by sexual assaulters by equitability protecting sexual assault victims in the same neighborhood as their assaulters, and increase the diversity of Ohioans that can feel safe in their neighborhoods.
- **State Representative Heidi Workman's** efforts to [maintain consistency between Ohio tax law and federal tax law](#) is not only inclusive toward financially challenged Ohioans by equitability aligning compliance requirements to increase the diversity of financially stable Ohioans but also provides justice for East Palestine Ohioans that have been harmed by the train derailment by waiving the tax on their settlement.
- **State Representative Munira Abdullahi's** efforts to [maintain security cameras at rest areas which the Ohio Department of Transportation \(ODOT\) has jurisdiction](#) is an act of inclusion toward gender minorities and immigrated Ohioans that are disproportionately targeted by human traffickers by equitably monitoring Ohio's rest stops for human trafficking and increasing the diversity of liberated Ohioans.
- **State Representative Joseph Miller's** [addition of Lorain Public Library's Toni Morrison Room to the America 250-Ohio Creativity Trail program](#) is inclusive to members of the Lorain community by equitably promoting community literary creativity and increasing the diversity of tourism and artists celebrated across Ohio.
- **State Representative Desiree Tim's** proposed [Reproductive Care Act](#) is inclusive of gender minorities and socioeconomically disadvantaged Ohioans by equitably protecting their access to evidence-based healthcare and increasing the diversity of Ohio's healthy workforce.

SB-1's prohibition of Diversity Equity Inclusion programs and offices would therefore make many of these above examples impossible for universities to implement and impossible for universities to similarly provide support to their students' academic success.

The Costs of Disinvesting in DEI

While proponents of SB-1 claim \$14-\$27.5 M was spent on Diversity Equity Inclusion in Ohio, I first doubt the methods used for calculating that number: a similar estimate was generated where Diversity Equity Inclusion faculty were cited as having a \$290,000 annual salary included the full salary of one of OSU's top surgeons, whose primary work and salary allocation goes toward their surgical practice rather than a 5% service allocation that partially included a Diversity Equity Inclusion taskforce. DEI offices/directors are also often in charge of an entire college's Title IX compliance and other required tasks from the state, taking up much of their salary and work allocation. Again, with Diversity Equity Inclusion defined so vaguely I can make the argument that a college's DEI budget is between 0% of the total budget (if we define DEI as division, exclusion, and inequality) to 100% of the budget (if we define DEI as a means of offering economic mobility and better healthcare for all students and community partners).

For the sake of argument, however, what is the bigger number: 14 million or 16 billion?

\$3.8 billion is the estimate of direct costs to American universities from students dropping/stopping out of college before earning a degree. Indirect costs of recruitment, loss in alumni donations, and other innovations are estimated closer to a \$16 billion loss. The most cited reasons for student to stop/drop out without a degree include:

1. struggles in navigating the financial and social support resources to continue studies,
2. not feeling like they belong in the college, and
3. not feeling like they belong in the discipline they were studying,

all of which are barriers Diversity Equity Inclusion offices alleviate through Diversity Equity Inclusion policies. Even with the conservative estimate divided evenly among 50 states, **the costs of students dropping out in addition to the increased administrative costs for universities and the Ohio Department of Higher Education to enforce SB-1 or HB-6 would far outweigh the costs of DEI programs that have been shown to be cost-effective at increasing student persistence to graduation and career success in addition to the loss of university donations from alumni and interest groups that are opposed to the recent preemptive compliance toward Diversity Equity Inclusion bans.**

Sec. 3345.0217. Division B (6) starting on page 24 lines 685-691 "Declare that it will not endorse or oppose, as an institution, any controversial belief or policy, except on matters that directly impact the institution's funding or mission of discovery, improvement, and dissemination of knowledge,"

Therefore, is also a self-contradiction in conflict as Diversity Equity Inclusion policy bans do directly influence the institution's funding by eliminating many of Ohio's student academic success programs that keep students on track for degree completion and influence the institution's mission of knowledge through intellectual diversity by excluding identity groups that face unequal barriers in college enrollment and persistence.

The Risk to Academic Freedom and Student Career-Readiness

There again is a direct conflict between:

Sec. 3345.0217. " (2) Affirm and declare that its primary function is to practice, or support the practice, discovery, improvement, transmission, and dissemination of knowledge and citizenship education by means of research, teaching, discussion, and debate;

(3) Affirm and declare that, to fulfill the function described in division (B)(2) of this section, the state institution shall ensure the fullest degree of intellectual diversity;

(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 indoctrinate any social, political, or religious point of view;"

and

"Sec. 3345.0217. (A) As used in this section: (1) "Controversial belief or policy" means any belief or policy that is the subject of political controversy, including issues such as climate policies, electoral politics, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion."

The drafters of SB-1 are reversed in their cause/effect: as a biomedical scientist, I did not seek to include politics into my discipline; it is politicians that forced my discipline into their politics when President Trump told Americans to inject themselves with bleach to cure COVID. These so-called "controversial beliefs or policies" do have a direct impact on many (if not all) disciplines, including pharmacy practice from the impact of climate change policies on the supply of natural products (like plants) that are used to make pharmaceuticals, Diversity Equity Inclusion policies that lower drug prices and make medication more accessible to Ohioans, how immigration and marriage policies influence the insurance policies patients can utilize to pay for their medication, and whether certain medications are limited by abortion laws.

These “controversial topics” will need to be discussed to prepare future pharmacists and the line between “instruction” and “indoctrination” are often blurred when an objective analysis of a topic is perceived as opposition to any given ideological view; for example, no matter how objectively I might teach students disparities in cancer wellness, including how women on average need twice as many visits to a primary care physician before they get their internalized cancer diagnosed than their male counterparts, and no matter how inviting I am to student discussion, there only needs to be one student who *feels* that I was biased or *thinks* there would’ve been retribution for students proposing an alternative view for educators to be at risk of disciplinary action including termination for tenured faculty. This also creates a conflict to free speech on the instructors: for example, disciplining the Jewish professor instructing on the Holocaust for not inviting the class to discuss opposing views on why the Holocaust is justified is just extraordinarily cruel. **Far from promoting education through “free, open, rigorous intellectual inquiry” through “research, teaching, discussion, and debate”, this bill will put educators at risk of being perceived as biased whenever these important “controversial topics” come up during instruction.**

Diversity Equity Inclusion Benefits in the Workplace and Hiring

As previously mentioned, inclusive workplaces generate success through quicker and more effective adaptations to a dynamic industry; Stefanie K Johnson’s “Inclusify: The Power of Uniqueness and Belonging to Build Innovative Teams” provides a particularly comprehensive overview of the 200+ formal investigations and numerous cases that support the impact of creating an inclusive environment has on academic and workplace success. With success being as strongly correlated to leaders that create inclusive environments as to those that report higher levels of emotional intelligence, collaboration, communication skills, and project management skills, **it has been a disservice of the republican party to their constituents to politicize and demonize Diversity Equity Inclusion practices that contributes to their academic and workplace success.**

With Diversity Equity Inclusion practices proven to generate success, it is therefore in the interest of universities and employers to promote inclusive environments on their campuses and workplaces through both the training of their current workforce in Diversity Equity Inclusion practices and in the selection of new hires that demonstrated their ability to create an inclusive workplace. To call a DEI statement a “litmus test” for liberalism, is as absurd as calling a statement on leadership or time management a litmus test against ideologies of workplace toxicity and disorganization ideologies; even white male conservative applicants can be expected to contribute to the success of the university by creating an inclusive environment that contributes to intellectual diversity.

While it is true that Diversity Equity Inclusion training for employees has had less time for development as other employee trainings in teamwork, communication, etc. that have been around for longer, workplaces that are inclusive of intellectual diversity in company decision-making are more adaptive to industry challenges by landing on more effective outcomes in a shorter time than workplaces that report a lower level of inclusiveness. The need for Diversity Equity Inclusion training for faculty has resulted in some poorly executed workplace training activities that exacerbated stereotypes and blamed the majority racial/gender group, same as when workplace teamwork trainings or communication training were new facilitators figuring out how to train employees often fumbled and created awkward and uncomfortable situations for employees. Just like more established teamwork and communication trainings though, more recent Diversity Equity Inclusion facilitators have managed to more reliably create inclusive workplaces through constructive and psychologically safe training settings that are becoming

more widespread best practices as workplace. Many of the toxic practices in Diversity Equity Inclusion training that SB-1 claims are already being phased out naturally as facilitators become more effective in training employees around Diversity Equity and Inclusion practices.

Other Problematic Areas

I also find problematic redundancies in SB-1 policies over Chinese collaborators, the Civic Literacy course, trustee board limitations, and collective bargaining prohibitions.

1. Universities already have data protection policies and HIPPA/FERPA restrictions on data sharing; the specific callout on individuals one “reasonably suspects is acting on behalf of the People's Republic of China” is problematic in promoting anti-Asian discrimination against students and faculty that just look Chinese. Adding additional barriers to collaborations with any East Asian partner will also make Ohio universities less competitive for research and education collaborations with East Asian institutes than our less restricted competitors.
2. Public universities already offer civics courses in their general education curricula. Adding another course is not only counterintuitive to SB-1/HB-6 objective in reducing students’ cost and time for degree completion, but the oversight of the education chancellor on what civic courses get approved risks potential retribution against left-leaning colleges by delaying/denying their civics course proposals.
3. Trustee boards should have students present even in executive meetings to ensure a student perspective is provided in the decision-making process. Giving the student members voting rights also give that perspective the power it deserves in trustee board decisions.
4. College professor strikes are exceedingly rare but necessary for collective bargaining in fair wages and work conditions. The addition of this item into SB-1/HB-6 sends precedence that the items of the bill are not, in fact, approved by a “silent majority” but will likely be protested through collective bargaining.

In short, Diversity Equity Inclusion policies aren’t just a matter of morality or altruism: these policies enhance Ohio’s economy by putting the most capable candidates where they provide the most benefit to their organization and ultimately their fellow Americans. To restrict Diversity Equity Inclusion programs and so-called “controversial topics” in Ohio’s university is in direct opposition to the universities’ missions for training Ohio’s workforce and pursuing the knowledge and innovations that further enrich the lives of all Ohioans.

My detailed opposition testimony is in addition to the 800+ testimonies shared by your constituents in opposition to Senate Bill 1 during the Feb 12th Ohio Senate Hearing, along with the thousands of Ohio students, faculty, and alumni (900 being from Ohio State alone) who have protested similar calls for Diversity Equity Inclusion bans from the Dear Colleagues letter from the Department of Education that is now under lawsuit

Proponent legislators for SB-1 likely did not realize that they themselves are authors of DEI policy through their recent initiatives and if they stand by their policies and their promises to reduce the cost of higher education, to promote intellectual diversity around “controversial topics”, and to represent the will of their constituents, then the committee must therefore vote “No” on SB-1 and HB-6 when it comes time to vote.

Thank you for your time and please don't hesitate to reach out with any questions you may have or clarification you may need,

Nicholas Denton, PhD