

An open letter to the Ohio Higher Education Committee:

Ohio Senate Bill 1 introduced to the 136<sup>th</sup> 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.

#### Defining Diversity, Equity, and Inclusion

Who is the better 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?

The vast majority of athletic directors and Ohioans would 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: 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 perform their best, 2nd runner's achievement matches ability). There's still a lot of confusion over DEI 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 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 white 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;** they 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 recruitment on a running team). With accusations of “token hires” rampant, employees from underrepresented groups should be assured that they absolutely were the most capable applicant and they belong where they are.

**3. DEI enhances success for everyone, regardless of how burdened/unburdened they are.** Research investigations and 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. abled employees using the wheelchair ramp to push a cart inside). 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.

### 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 challenges in 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 year. Now is it conceivable that if Representative Williams had the same privileges as I had: study time uninterrupted by arranging 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 Americans would agree yes: that Josh overcame headwinds that impacted his achievement, not his capability. If we recognize that Josh is a more capable lawyer than the applicants who scored a 85% without my headwinds, then choosing Josh over a less capable applicant who also scored around 85% is not (as many confused over DEI claim) 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 Josh 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 Josh had all these headwinds didn't mean the university was going to accept him if he came in at 50% on the LSAT; everyone in his incoming class had to demonstrate they were the most capable applicants. While Josh 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 Josh being a "fluke" or "weaseled in" to their institution somehow. The solution to this bias, however, is not to cave in to demands to be willfully ignorant of applicants' demonstrations of capability in overcoming headwinds and reinforce barriers to accessing opportunity until the incoming class fits what a few students believe are the demographics that "belong" in law, but to be transparent to incoming classes that they were deemed the most capable based of their merits and the headwinds they overcame.

**3. Equalizing access to opportunity and enhancing intellectual diversity.** In addition to Josh'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 in accessing opportunities, 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."*

Is unenforceable because by most universities' definition of DEI all jobs in the university promote DEI, 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. DEI is more than just professional development trainings and reminding admissions committees of the burdens students carry that impede traditional measures of merit and **leaving DEI 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 DEI director started working in the dining hall preparing nutritious and affordable meals to students that came from a food desert or dealt with food insecurity or made sure vegan, Kosher, and Halal options in all the dining halls, that is an act of inclusion toward those students, that equitably improves student academic performance and enhances the diversity of our campus: that is DEI. 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. The same can be said about programs that:

- send mobile mammography clinics to diagnose breast cancers earlier in Appalachian Ohio
- offer math preparation to students whose high school didn't offer calculus
- create pipelines for Lakeland Community College transfer students to complete a bachelors degree in 2 years or less
- launch drug repository programs to offer affordable medication to student patients
- provide affordable childcare to parenting nurse practitioner students
- provide mental health counseling for our veteran students
- Creating micro credentials for employment readiness for Marion and Springfield's growing technical workforce demands

**Drafters of SB-1 likely did not realize that they themselves are proponents of DEI through their recent policies,** so why is it any different for DEI directors to lead these initiatives, in addition to performing the federally required duties of Title IX case review?

#### The Costs of Disinvesting in DEI

While proponents of SB-1 claim \$14 million was spent on DEI in Ohio, I first doubt the methods used for calculating that number: a similar estimate was generated where DEI faculty were cited as having a \$290 annual salary included the full salary of one of OSU's top surgeons, whose primary work and salary allocation goes toward their surgical practice. DEI officers/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 DEI defined so vaguely I can make the argument that a college's DEI budget is between 0% (if we define DEI as division, exclusion, and inequality) to 100% (if we define DEI as a means of offering economic mobility and better healthcare for all).

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 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 stop out without a degree include: 1. struggles in navigating the financial and social support resources to continue studies, 2. not feeling like they were a good fit for the college, and 3. not feeling like they were a good fit for the discipline they were studying, all of which are barriers DEI offices alleviate through DEI policies. Even with the conservative estimate divided evenly among 50 states, **the costs of students dropping out far outweigh the costs of DEI programs that have been shown to be cost-effective at increasing student persistence to graduation and career success.**

*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 in conflict as DEI policies 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 the drafters of SB-1 that seek to force my discipline into their politics.** These deemed "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, DEI 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 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.**

#### DEI 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 SB-1 bill drafters to their constituents to politicize and demonize a practice that contributes to their academic and workplace success.**

**With DEI 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 DEI practices and in the selection of new hires that demonstrate 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 toxic and disorganized 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.

#### 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 has 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.
2. Public universities already offer civics courses in their general education; adding another course is not only counterintuitive to students’ cost and time for degree completion, but the oversight of the education chancellor on what civic courses get approved risks potential retribution against approving civic courses from left-leaning colleges.
3. Trustee board should have students present even in executive meetings to ensure a student perspective is present along with the right to make that perspective count through voting rights.
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 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, DEI policies aren’t just a matter of morality or altruism: these policies enhance the nation’s economy by putting the most capable candidates where they provide the most benefit to their organization and ultimately their fellow Americans. To restrict DEI and controversial topics in the university is in direct opposition to the universities’ missions for training Ohio’s workforce and pursuing the knowledge and innovations that similarly enrich the lives of all Ohioans.

Thank you for your time,

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