

Opposition to SB1

Testimony of Steve Butler, Esq.
Cincinnati, Ohio

There are many reasons why SB1, the “Advance Ohio Higher Education Act,” would be bad law and should be defeated. I will address the three primary ones here.

The critical language of SB1 is unconstitutionally vague because it is so ambiguous that it fails to reasonably inform individuals of the speech it seeks to prohibit and punish. SB1 specifies that college faculty “shall not seek to indoctrinate” students on “controversial beliefs,” defined as “any belief or policy that is the subject of political controversy,” including but not limited to certain identified issues. The language of the statute expressly encompasses issues that are not identified, but what are they? And when does a professor cross the line between expecting students to blindly accept a point of view (indoctrination) and challenging students to engage in critical thinking about opposing points of view (teaching)?

It is impossible to enforce in a way that is fair to students and professors, the primary stakeholders in higher education. Who gets to decide when a professor runs afoul of the prohibitions of SB1? Is controversy in the mind of each individual student, like beauty is in the eye of the beholder? To which student in a lecture hall do we assign the job of deciding whether a teacher is indoctrinating or teaching? And how does the enforcer of SB1 decide the guilt or innocence of the accused professor? One option would be to call each student in the class as a witness to say whether they considered the issue to be controversial and whether they felt the professor was indoctrinating them, and then determine the fate of the professor based on the number of student votes on each side of the issue. We also could just make videos of every class for Big Brother to view and decide whether indoctrination of controversial issues took place, but that would allow for the messy outcome of penalizing a professor when most of the students found the discussion at issue to be thought provoking and engaging. And

regardless of how a violation of SB1 is adjudicated, rule-making by whatever political party happens to be in charge on what types of discussions are appropriate in a college classroom is the height of arrogance.

Underlying SB1 is a belief that each student who attends Ohio's public colleges is incapable of thinking for themselves and reaching what they personally believe to be the right position on controversial issues. The only conceivable reason for preventing college students from being exposed to discussion on both sides of a controversial issue is a fear that they lack the intellectual rigor to consider the pros and con of a question and arrive at a reasoned conclusion. Maybe a student who sits through a classroom discussion of one of the subjects SB1 puts off limits will reassess his or her thinking and, heaven forbid, change his or her mind. Or not. But to prohibit a college student from having that experience is offensive and insulting to every Ohio college student.

Sen. Jerry Cirino, SB1's sponsor, has been quoted as suggesting the main purpose of his bill is "restoring and ensuring academic freedom at our state institutions of higher education." What an idiotic statement. I challenge him to explain with a straight face how politicians prohibiting professors from addressing students about issues some might consider controversial is consistent with academic freedom and provides free-thinking students with a meaningful higher education.