



Ohio Conference of the American Association of University Professors

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Testimony of David J. Jackson, Ph.D.

Ohio Conference of the American Association of University Professors

Before the House Higher Education Committee

Representative Candice Keller, Chair

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Chair Keller, Vice Chair Riedel, Ranking Member Ingram, and Members of the Higher Education Committee:

My name is David Jackson, and I am here on behalf of the Ohio Conference of the American Association of University Professors (AAUP), which represents 6,000 faculty at public and private institutions of higher education across the state. I am also a Professor of Political Science at Bowling Green State University.

I am here today to express the Ohio Conference AAUP's opposition to Senate Bill 40.

College and university faculty care deeply about free speech. It is the foundation of academic freedom -- the most important principle of the AAUP. Free speech is not simply an aspect of the educational enterprise to be weighed against other desirable ends. It is the very precondition of the academic enterprise itself.

The AAUP's views on campus free speech align quite a bit with those of the sponsors of this bill. Our national organization's 1992 statement *On Freedom of Expression and Campus Speech Codes* states, "On a campus that is free and open, no idea can be banned or forbidden. No viewpoint or message may be deemed so hateful or disturbing that it may not be expressed."

However, there is a substantial difference between banning an idea and disallowing a controversial speaker that would cause massive disruption and create crowds that campus police could not control. If legislation like this would be approved, thus taking these decisions out of the hands of the institutions, we would expect that the legislature would provide funding for the security that hosting controversial speakers would entail. You are well aware that, especially after the financial fallout from COVID-19, our institutions are not in a position to spend finite resources on crowd control.

If a very controversial figure on the Far Right comes to a campus and causes a great (and expensive) stir, how can an equally controversial figure on the Far Left be denied the right to speak at that campus or another campus? Perhaps the issue here is not political ideology, but the accommodation of figures whose reputations depend on generating outrage as much as on professing a particular ideology. This bill would be more justifiable if leading elected officials, political strategists, or thought leaders of any political affiliation were somehow being denied the opportunity to speak. But it is very unlikely that such speakers have track records of ginning up controversy ahead of their appearances and thereby creating the need for very expensive security.

Ohio's institutions of higher education have long enjoyed a level of autonomy to operate themselves. We believe that our institutions have done well balancing free speech with the

safety and welfare of our campus communities. SB 40 would make our institutions even more likely to become involved in highly politicized controversies, and is potentially very costly – neither of which is what our students and the taxpayers can possibly want our institutions to be distracted by or expending resources on.

The bill would create new layers of bureaucracy at our colleges and universities. Unless you want to see a new Office of Free Speech at each campus, complete with its own director, administrative assistant, compliance officer, and so on, you should avoid SB 40. The last thing our institutions need is more bureaucracy and administration.

Moreover, this legislation appears derived from "model bills" proposed by the American legislative Exchange Council and the Goldwater Institute. We don't think this kind of cookie-cutter legislation is appropriate for Ohio. While much attention has been drawn to a handful of incidents nationwide, at thousands of campuses, including those in Ohio, the free exchange of ideas goes on without suppression or conflict. The view that the free exchange of ideas no longer occurs on campuses, or is inhibited, has been grossly exaggerated.

Back in the spring, we watched a series of speakers advocate for this legislation. Many of them were conservative advocacy groups, part of national movements seeking political advantage and seeing Ohio as a battleground. We also heard from students, who we believe are more relevant to the discussion. If one listened closely to their testimony, their problems entailed conflicts with other students.

When you get thousands of young people together on our campuses of different classes, races, religions, sexual orientations, and political beliefs, there are going to be differences. Usually, this amounts to the free exchange of opinions and the battleground of ideas that we expect to see at our universities. It is something that has always happened at our institutions and is one of the reasons they exist. The troublesome issue here is: Is it the role of the legislature to regulate the way students talk to each other about politics?

This leads us to important points about the First Amendment. One is that its original intention was to be a restraint on government, not a politicized defense of conservative or liberal ideas. Second, the First Amendment guarantees the right to speak freely, but it most definitely does not free one from criticism or other repercussions for what one says or the ideas that one advocates.

It is not uncommon for there to be costs in exercising the right to speak freely. In the real world, people lose jobs and friends for expressing their ideas. This bill seeks to put a protective bubble around conservative students. We do not think that is a good idea for any of our students, whatever their political views may be.

Higher education faces many problems, but free speech is not one of them. The First Amendment already protects free speech, and anyone in the campus community can challenge infringements to that, if it is justified. Government gets into thorny territory when it attempts to legislate what free speech is or should be on our colleges and university campuses. Very simply, SB 40 is a solution in search of a problem.

Thank you for the opportunity to testify. I would be happy to answer questions.