



## Ohio Senate Bill 83 (The Ohio Higher Education Enhancement Act)

### Background

S.B. 83 was introduced by Senator Jerry Cirino (R-District 18) on March 15, 2023 in the Ohio Senate. Following its introduction, the bill was assigned to the Senate Workforce and Higher Education Committee, where public hearings are taking place. S.B. 83 is similar to several previous bills introduced in the Ohio Statehouse (House Bills 322, 327, 616) which sought to restrict the teaching of certain "divisive concepts" in Ohio schools and limit or prohibit the use of public resources for Diversity, Equity, and Inclusion (DEI) trainings and related antiracist educational frameworks. According to bill sponsors, these bills were all introduced in response to perceived concerns about the biased teaching of history and other topics in Ohio schools (ranging from K-12 to public universities).

As Senator Cirino noted in his sponsor testimony when introducing the bill:

"SB 83 is a much needed course correction for our institutions of higher learning. This course correction is needed now so that we do not end up with institutions that are more focused on social engineering rather than true intellectual diversity of thought and the teaching of useful analytical skills ... The fact is, this DEI infrastructure is a popular tool to promote social engineering and not to promote true intellectual diversity, which should be at the core of a well-rounded education. These programs undermine the first amendment, will take us down the path of indoctrination of our students, and will rob them of the opportunity to learn and think for themselves ... SB 83 is truly an urgent course correction to protect Ohio students and the integrity of our universities and colleges."<sup>1</sup>

### Overview

S.B. 83 introduces a wide range of changes to public education in Ohio, from what is taught in classrooms to the structure and oversight of state institutions of higher education. Importantly, the bill also has the potential to impact private educational institutions if they receive state fundings. Key aspects of this proposed bill include: new changes to university mission statements; training for trustees; public accessibility of course syllabus; prohibitions on controversial or ideological topics in courses; bans DEI in training or hiring; restrictions on use of DEI; new faculty teaching and performance reviews; public employee strike prohibitions; and restrictions on partnerships with Chinese institutions.

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<sup>1</sup> S.B. 83 Sponsor Testimony, Senate Workforce and Higher Education Committee (3/22/2023)

## ***Changes to University Mission Statements***

According to the bill, the chancellor of higher education in Ohio would be prohibited from distributing any state funds to private institutions of higher education unless they certify all of the following:

1. The institution is committed to intellectual diversity.
2. The institution is committed to free speech protection for students, staff, and faculty.
3. The institution does not require diversity, equity, and inclusion courses or training for students, staff, or faculty.
4. The institution complies with the syllabus requirements prescribed under section 3345.029 of the Revised Code [a new section the bill creates] as if it were a state institution of higher education.
5. The institution complies with the prohibition of political and ideological litmus tests in hiring or promotion policies in accordance with section 3345.0217 of the Revised Code [a new section the bill creates] as if it were a state institution of higher education.<sup>2</sup>

## ***Publicly Accessible Syllabus Requirement***

The syllabus requirements referred to above in number 4 require universities to submit all the following information, which must be made publicly available in a searchable form on the university's website:

- (a) The name of the course instructor.
- (b) A brief description of each major course requirement, including each major assignment and examination.
- (c) A list of any required or recommended readings for the course.
- (d) A general description of the subject matter of each lecture or discussion in the course.
- (e) Biographical information on the course instructor.<sup>3</sup>

## ***Controversial Beliefs and Ideologies***

The bill also introduces a new set of terms into the Ohio Revised Code (ORC) relating to educational subjects and content. The new terms include "controversial belief or policy," "intellectual diversity," "specified content," and "specified ideology." The bill defines these key concepts as follows:

1. "Controversial belief or policy" means any belief or policy that is the subject of political controversy, including issues such as climate change, electoral politics, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion.
2. "Intellectual diversity" means multiple, divergent, and opposing perspectives on an extensive range of public policy issues widely discussed and debated in society at large, especially those perspectives that reflect the range of American opinion, but which are poorly represented on campus.

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<sup>2</sup> Sec. 1713.57 (A-F)

<sup>3</sup> Sec. 3345.029 (A-E)

3. "Specified concept" means a concept such as allyship, diversity, social justice, sustainability, systematic racism, gender identity, equity, or inclusion.
4. "Specified ideology" means any ideology that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, and prescribes advantages, disadvantages, or segregation based upon identity group membership.<sup>4</sup>

### ***Diversity, Equity, and Inclusion (DEI) Restrictions***

In addition, the board of trustees of any state institution of higher education is required to approve a new policy (within 90 days of the adoption of the bill into law) that meets the following requirements:

1. Prohibit any mandatory programs or training courses regarding diversity, equity, or inclusion.
2. Affirm and guarantee that its primary function is to practice, or support the practice, discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate.
3. Affirm and guarantee that, to fulfill the function described in division (B)(2) of this section, the institution shall ensure the fullest degree of intellectual diversity.
4. Affirm and guarantee that faculty and staff shall allow and encourage students to reach their own conclusions about all controversial matters and shall not seek to inculcate any social, political, or religious point of view.
5. Establish and implement intellectual diversity rubrics for course approval, approval of courses to satisfy general education requirements, student course evaluations, common reading programs, annual reviews, strategic goals for each department, and student learning outcomes.
6. Affirm and guarantee that it will not endorse, oppose, comment, or take action, as an institution, on the public policy controversies of the day, or any other ideology, principle, concept, or formulation that requires commitment to any controversial belief or policy, specified concept, or specified ideology, although it may endorse the congress of the United States when it establishes a state of armed hostility against a foreign power.
7. Affirm and guarantee that the institution will not encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of a social policy, nor will the institution require students to do any of those things to obtain an undergraduate or post-graduate degree.
8. Prohibit the institution from engaging in or abetting activities such as boycotts, disinvestments, or sanctions. Divisions (B)(6) to (8) of this section do not apply to the exercise of professional judgement about whether to endorse the consensus or foundational beliefs of an academic discipline, unless that exercise is misused to take an action prohibited in division (B)(6) of this section.
9. Prohibit political and ideological litmus tests in all hiring, promotion, and admissions decisions, including diversity statements and any other requirement that applicants describe their commitment to a specified concept, specified ideology, or any other ideology, principle, concept, or formulation that requires commitment to any controversial belief or policy.

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<sup>4</sup> Sec. 3345.0217 (A-B)

10. Affirm and guarantee that no hiring, promotion, or admissions process or decision shall encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of a social policy.
11. Affirm and guarantee that the institution will not use a diversity statement or any other assessment of an applicant's commitment to specified concepts in any hiring, promotions, or admissions process or decision.
12. Affirm and guarantee that no process or decision regulating conditions of work or study, such as committee assignments, course scheduling, or workload adjustment policies, shall encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of a social policy.
13. Affirm and guarantee that the institution will seek out intellectual diversity in invited speakers.
14. Post prominently on its web site a complete list of all speaker fees, honoraria, and other emoluments in excess of five hundred dollars.<sup>5</sup>

### ***New Undergraduate Course***

The bill also calls for the creation of a new, mandatory 3 credit undergraduate course in American government or American history which all associate or bachelor's degree students must take and pass. This new course must include all of the following documents:

1. The entire Constitution of the United States.
2. The entire Declaration of Independence.
3. A minimum of five essays in their entirety from the Federalist Papers.
4. The entire Emancipation Proclamation.
5. The entire Gettysburg Address.
6. The entire Letter from Birmingham Jail written by Dr. Martin Luther King Jr.<sup>6</sup>

### ***Course Evaluations and Tenure Performance Reviews***

The bill also requires the creation of a new set of course evaluation questions to be developed by the chancellor of higher education, with the following language as part of the required questions. "Does the faculty member create a classroom atmosphere free of political, racial, gender, and religious bias?" The bill further requires that the average annual numerical score of these student evaluations of faculty must be posted on their website and publicly available.<sup>7</sup>

The bill also requires the creation and implementation of a new annual faculty performance review with "standardized, objective, and measurable metrics" that cover Teaching, Research, Service, Clinical care, Administration, and an open-ended "Other categories." As part of these annual evaluations, faculty

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<sup>5</sup> Sec. 3345.0217 (A-B)

<sup>6</sup> Sec. 3345.382 (A-B)

<sup>7</sup> Sec. 3345.451 (A-E)

performance will be rated as "exceeds performance expectations," "meets performance expectations," or "does not meet performance expectations," with the newly designed student evaluations counting for at least 50% of the teaching component evaluations.<sup>8</sup>

In a similar vein, the bill also mandates a new, post-tenure review process for any faculty member receiving a "does not meet performance expectations" for two consecutive years in a row in any of the areas outlined in the bill. If a faculty member continues to receive a negative performance review after this review, they must then undergo an additional post-tenure performance review for two further years. The leadership of the university may also fire any tenured faculty member who has a sustained record of underperforming outside of the annual performance review process.<sup>9</sup>

### ***China Restrictions***

Unlike similar bills introduced in Ohio recently, S.B. 83 adds a new set of criteria around partnership or collaborations with Confucius Institutes and restricts gifts, donations, or contributions from any organization or individual acting on behalf of the Chinese government. The bill requires institutes of higher education to report to the chancellor of higher education any gifts, donations, or contributions from any "Confucius institute, scholars association, or other organization that is, directly or indirectly, affiliated with, funded by, or supported by the People's Republic of China," as well as any "existing contracts, partnerships, affiliations, or financial transactions" with China.

Of particular note is a new restriction that prohibits any form of academic partnership with Chinese universities or other institutions with links to China. The bill states that "No state institution of higher education shall enter into any academic relationship with an academic institution located in China or an academic institution that is located in another country and is associated with the People's Republic of China." Any existing agreements with Chinese partners may not be renewed when they expire.<sup>10</sup>

### ***Restrictions on University Programs***

The bill also introduces a new set of restrictions on what universities can or cannot do on a wide set of issues related to social identities and university policies. Among other things, the bill states that no state institution may train administrators, teachers, or staff to adopt or believe any of the following concepts:

1. One race or sex is inherently superior to another race or sex.
2. An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race.

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<sup>8</sup> Sec. 3345.452 (A-E)

<sup>9</sup> Sec. 3345.453 (A-G)

<sup>10</sup> Sec. 3345.591 (A-F)

4. Members of one race cannot nor should not attempt to treat others without respect to race.
5. An individual's moral standing or worth is necessarily determined by the individual's race or sex.
6. An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.
7. An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex.
8. Meritocracy or traits such as hard work ethic are racist or sexist, or were created by members of a particular race to oppress members of another race.
9. Fault, blame, or bias should be assigned to a race or sex, or to members of a race or sex because of their race or sex.

Further, the bill prohibits state institution from hiring administrators, teachers, or staff who "provide instruction on any of the concepts listed in divisions (D)(1) to (9)," and further, each state institution must "implement a range of disciplinary sanctions for anyone under its jurisdiction who authorizes or engages in a training prohibited in division (D)." The bill also requires that universities provide an annual report on all violations of the criteria above, which must be publicly available on its website.<sup>11</sup>

### ***Public Employee Strike Prohibitions***

In addition to the above changes, the bill also introduces a new set of restrictions and prohibitions on the legal rights of public employees to go on strike. Specifically, the bill lists nearly fifteen different areas of employment which would be excluded from the right to strike under Chapter 4117 of the Ohio Revised Code. These new strike restrictions include individuals employed by law enforcement, fire departments, a range of nursing, mental health, and public health professionals, employees covered under any public employee retirement system, and employees of any state institute of higher education.<sup>12</sup>

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For the current status of S.B. 83, please visit the Ohio Legislature Senate Bill 83 Status page at the following link: <https://www.legislature.ohio.gov/legislation/135/sb83/status>.

Hearings on S.B. 83 are taking place in the Ohio Senate Workforce and Higher Education Committee. More details about the committee, including copies of public testimony, bill amendments, and hearing schedules, can be found here: <https://www.legislature.ohio.gov/legislation/135/sb83/committee>.

\*This summary was compiled by Ohioans for Critical Race Theory and written by Dr. Chris Crews. To learn more about threats facing Ohio educators please visit <https://ohiocriticalracetheory.com>. Email: [info@ohiocriticalracetheory.com](mailto:info@ohiocriticalracetheory.com).

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<sup>11</sup> Sec. 3345.87 (A-I)

<sup>12</sup> Sec. 4117.14 (A-I)