

118TH CONGRESS
1ST SESSION

H. RES. 282

Expressing that compelled political litmus tests used by public institutions to require individuals to identify with specific ideological views are directly at odds with the principles of academic freedom and free speech and in violation of the First Amendment of the Constitution.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2023

Mr. MURPHY (for himself and Mr. BISHOP of North Carolina) submitted the following resolution; which was referred to the Committee on Education and the Workforce

RESOLUTION

Expressing that compelled political litmus tests used by public institutions to require individuals to identify with specific ideological views are directly at odds with the principles of academic freedom and free speech and in violation of the First Amendment of the Constitution.

Whereas in *Sweezy v. New Hampshire* in 1957, the Supreme Court wrote that, “The essentiality of freedom in the community of American universities is almost self-evident . . . To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation . . . Teachers and students must always remain free to inquire, to study and to evaluate,

to gain new maturity and understanding; otherwise, our civilization will stagnate and die.”;

Whereas 10 years later in *Keyishian v. Board of Regents*, the Supreme Court further elaborated on *Sweezy* and declared that academic freedom “is a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”;

Whereas in *Healy v. James*, the Supreme Court held that “[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”;

Whereas in *West Virginia State Board of Education v. Barnette*, the Supreme Court held that the First Amendment prohibits the Government from compelling an individual to engage in speech, writing that, “if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”;

Whereas many colleges and universities require or invite current or prospective faculty to demonstrate their commitment to diversity, equity, and inclusion (DEI), often through a written statement that factors into hiring, re-appointment, evaluation, promotion, or tenure decisions;

Whereas ideologically motivated and required DEI statement policies can too easily function as litmus tests for adher-

ence to prevailing ideological views on DEI, penalize faculty or applicants for holding dissenting opinions on matters of public concern, and “cast a pall of orthodoxy” over the campus that the Supreme Court warned against in *Keyishian*;

Whereas a survey by the American Association of University Professors of hundreds of colleges and universities found that more than one-fifth of higher education institutions include DEI criteria in tenure standards, and of the institutions that do not include such DEI criteria, nearly half indicated they are considering adding such criteria in the future;

Whereas a survey by the American Enterprise Institute of academic job postings found that nearly 20 percent required DEI statements;

Whereas the First Amendment to the Constitution prohibits public universities from compelling faculty to assent to specific ideological views or to embed those views in academic activities;

Whereas in order to push favored views, colleges and universities are increasing the number of faculty dedicated to programs and initiatives to support these ideological views;

Whereas the Heritage Foundation found that large public universities averaged 45 DEI personnel, while other departments in universities are understaffed by comparison, and this proliferation of DEI administrators and prioritization of DEI adherence in personnel decisions places importance on adherence to a social movement rather than on education and serving students;

Whereas medical schools are also probing student applicants on their views on, or experience in, DEI efforts, and this overt test on identity politics for medical school admissions has been found in 36 of the top 50 medical schools;

Whereas demanding that students endorse specific beliefs or face roadblocks in their education is an appalling action from professional schools and far from the meaning of academic freedom; and

Whereas colleges and universities are also prioritizing ideological programming for students over programming to support viewpoint diversity, and according to a report from Speech First, in the 2021–2022 school year, 90 percent of college freshman orientation programs focused on DEI as a topic, while only around 30 percent of orientation programs reviewed free speech or viewpoint diversity: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) condemns public institutions of higher edu-
3 cation for conditioning admission to any student ap-
4 plicant, or the hiring, reappointment, or promotion
5 of any faculty member, on the applicant or faculty
6 member pledging allegiance to or making a state-
7 ment of personal support for or opposition to any
8 political ideology or movement, including a pledge or
9 statement regarding diversity, equity, and inclusion,
10 or related topics; and

11 (2) discourages any institution from requesting
12 or requiring any such pledge or statement from an

1 applicant or faculty member, as such actions are
2 antithetical to the freedom of speech protected by
3 the First Amendment.

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