



## REBUILDING INDIVIDUAL FREEDOM AND POLITICAL PLURALISM IN HIGHER EDUCATION IN OREGON

**Brief prepared for Senator Dennis Linthicum**

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### Table of Contents

Overview .....	1
Objectives .....	2
The Opportunity .....	2
The Solution .....	3
Changes to Boards of Trustees.....	3
Institutional Neutrality .....	3
Transparency and Student Rights.....	5
OAS Reports and Press Releases .....	6

### Overview

Oregon has experienced a narrowing of campus freedoms and a steady decline of political pluralism at its institutions of higher education.

Universities are taking particular stands on divisive social issues and, with faculty support, imposing those views on students and the campus as a whole (see recent reports and press releases by the Oregon Association of Scholars below). Oregon students are graduating without learning about the pluralism of viewpoints on most issues and without an ability to engage in reasoned debates. All Oregonians have a shared interest in protecting the freedoms and political diversity on campus on which excellence in

higher education depends. The Oregon Association of Scholars considers this to be a threat to educational excellence in the state, as well as to the rights of students. This brief summarizes potential actions that might be taken at the state level to correct these trends.

## **Objectives**

- Need #1: Protect the rights of individual students to express different viewpoints and have their work treated based on its merit rather than its viewpoint
- Need #2: Rebuild academic programs so that students are introduced to a variety of reasonable viewpoints on various issues and so that campus events reflect a variety of viewpoints
- Need #3: Rebalance the political pluralism of faculty through attention to viewpoint diversity in hiring
- Need #4: Protect faculty and students from the imposition of mandatory viewpoints of contentious social and political issues

## **The Opportunity**

- Goal #1: Make Oregon a national leader in rebuilding individual freedom and ideological pluralism in higher education.
- Goal #2: Reinvigorate Oregon's strong tradition of bi-partisan and pragmatic citizenship through campus reforms.
- Goal #3: Attract new students from the U.S. and internationally seeking a quality education.

## **The Solution**

- New powers for university/college boards of trustees
- Legislation and regulations to uphold institutional neutrality
- Transparency of university operations and protection of student rights

## **Changes to Boards of Trustees**

University and college boards of trustees act as the representatives of the people of Oregon in protecting freedom and excellence at institutions of higher education. In order to fulfill that role, they require new tools. These would include:

- A reorganization of board structures so that boards act in the interests of Oregon students and taxpayers rather than university administrations
- The hiring of dedicated staff by the boards so that they are not dependent on university administrators for analysis and evaluation
- A consultative role in new faculty hires, new academic programs, and new university administrative positions and units
- Oversight responsibilities for university/college “diversity and equity” offices
- Oversight responsibilities for campus free speech requirements

## **Institutional Neutrality**

Oregon colleges and universities should be required to explicitly affirm and then implement the widely-acknowledged principle that institutions of higher

education are politically neutral on major policy issues. Additional measures to strengthen institutional neutrality might include:

- A major impediment to institutional neutrality are the offices of “diversity and equity” since they not only advocate for social policy positions that go well beyond federal and state legislation, but they also hold investigative and quasi-judicial functions to interpret and enforce their own advocacy positions. The latter functions should be put under institutional legal counsel offices, while the policies to be applied should conform strictly to federal and state law
- Universities should be sanctioned if they take institutional positions on major social policy issues or take positions that are not in conformity with state and federal requirements.
- Legislative or regulative actions by the state government that impose ideological or political demands on universities should be reviewed and curtailed.
- Efforts should be taken to clarify and define what constitutes institutional neutrality. For instance, are proclamations and resolutions made by faculty senates subject to neutrality rules? Also, when are proclamations made by individual officials who can speak both for themselves and the institution subject to neutrality rules?
- Legislation should be passed to protect free speech on campus. Three alternative models exist: Campus Free Expression Act endorsed by the Foundation for Individual Rights in Education, the Campus Free Speech Act by the Goldwater Institute, and the Forming Open and Robust University Minds (FORUM) Act by American Legislative Exchange Council. All three models protect speech on campus. Legislation has

already been passed in several states. The first was North Carolina's HB 527 ("An Act to Restore and Preserve Free Speech on the Campuses of the Constituent Institutions of the University of North Carolina"). It was modeled after the Goldwater Institute's Campus Free Speech Act. Goldwater's model legislation also includes a provision mandating institutional neutrality and strong punishments for protestors who prevent others from exercising their free speech rights.

- The state's Higher Education Coordinating Commission should be given new responsibilities to monitor institutions in coordination with their Boards of Trustees to ensure that their governance is consistent with the principles of free speech and have a range of sanctions for institutions that do not comply

## **Transparency and Student Rights**

Transparency allows outside stakeholders – alumni, grant agencies, the media, parents, and legislators – to assess for themselves the campus environment rather than relying on the university and faculty unions. Information transparency will help stakeholder groups to collaborate among themselves and with the university community to uphold individual freedoms and political pluralism on campus. Transparency measures might include:

- The requirement that all course syllabi be publicly available
- Students accused of crimes and serious violations of campus rules should have the same due process rights as the general public. These include a presumption of innocence, the right to question witnesses and accusers, the right to representation, the right to judicial impartiality, and

an appropriate standard of proof (clear and convincing or beyond reasonable doubt.)

- Students should have their right to freedom of association protected. This includes the right of individuals to form groups to pursue common interests and to align with others of common beliefs. Student organizations should be permitted to set their own standards for membership and leadership roles. North Carolina enacted a new law concerning students' right of association: Session Law 2014-28.
- The requirement that budget and financial statements of university operations available to boards of trustees also be publicly available
- The requirement that universities make public data on average grades awarded (by academic program and at the university-level)
- The requirement that universities make public data submitted to the Department of Education for the College Scorecard series

### **OAS Reports and Press Releases**

- “New state law imposing ‘cultural competency’ training on professors will drive up tuition, undermine educational goals, stifle debate” (6 June 2017). [Link](#)
- *The Imposition of Diversity Statements on Faculty Hiring and Promotion at Oregon Universities* (Revised 16 March 2017) [Link](#)
- “State Universities Must Be Viewpoint Neutral” (12 April 2018) [Link](#)
- Statement on University of Oregon’s last-place national ranking in political diversity (5 December 2016) [Link](#)