

Bowling Green State University

Ohio Faculty Council



Faculty Senate Statement on Ohio S. B. 24 ("A Bill to Establish the Academic Bill of Rights for Higher Education")

Bowling Green State University

I. Summary of Salient Sections of Proposed Bill

Paragraph C of Senate Bill 24 ("A Bill to enact sections 3345.80 and 3345.81 of the Revised Code to establish the academic bill of rights for higher education") jointly sponsored by Senators Mumper, Jordan, Cates and Wachtmann, which purports to protect the "academic freedom and quality of education of ... students from faculty members 'who persistently introduc[e] *controversial matter* [italics supplied] into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose.' In paragraph E, Senate Bill 24 proposes to accomplish its avowed goal of 'protecting academic freedom and quality of education,' *supra*, by among other things, mandating that all institutions of higher learning--public and private--in the State 'A...distribute student fee funds on a viewpoint-neutral basis and shall maintain a posture of neutrality with respect to substantive political and religious disagreements, differences, and opinions.' 'The selection of speakers,' the same paragraph continues, 'allocation of funds for speakers' programs, and other student activities shall observe the principles of academic freedom and promote the diversity of opinions on intellectual matters.' The punitive section of the proposed bill is contained in Section 3345.81, which empowers the "board of trustees [of State-supported institutions like Bowling Green State University] or other governing authority of each private institution of higher education that holds a certificate of authorization under section 1713.02 of the Revised Code [to] adopt a *grievance procedure* by which a *student, faculty member, or instructor [sic] may seek redress for an alleged violation of any of the rights specified by the institution's policy adopted under section 3345.80 of the Revised Code.*" [Italics supplied]"

II. How the Proposed Bill Threatens Academic Freedom

While at first blush, Senate Bill 24 appears to strengthen and enhance academic freedom, closer scrutiny and examination reveals that it actually does the opposite; that far from protecting the rights of independent-thinking and progressive faculty members who may from time to time, choose to challenge and question prevailing orthodoxies in their teaching and research activities, the proposed bill actually undermines their ability and freedom to do so by seeking to transfer the authority of determining what is proper or improper—from a scholarly or pedagogical point of view—from a body of one's peers in the academy to a political arm of the State's executive authority who appoints members of the boards of trustees of State-supported institutions; governing boards that are creatures of the executive branch, to whom these boards are primarily and ultimately accountable. The latter proposal does not only run counter to the meaning and scope of academic freedom as it has evolved through the centuries, but displace, supplant and nullify existing mechanisms meticulously laid out in Academic Charters like that of Bowling Green State University's and in most, if not all, modern universities, not to say anything about inter-university faculty bodies like the American Association of University Professors (AAUP), which over sixty years ago set forth the basic principles of academic freedom in a document entitled *1940 Statement of Principles on Academic Freedom and Tenure*.

III. The Meaning and Substance of Academic Freedom

From its inception in medieval times—at the University of Bologna and Padua, among others—to modern times, academic freedom has always been hailed as a shield designed to protect teachers and scholars who dared to question and challenge prevailing orthodoxies and *ex cathedra* edicts from ecclesiastical authorities who invariably subjected alleged "heretics" and "blasphemers" to infamous star-chamber proceedings and inquisitions unless and until they recanted their "heretical" views and beliefs. In modern times, academic freedom and its many permutations has been defined by the U.S. Supreme Court in, among others, *Sweezy v. New Hampshire*, 354 U.S. 234 (1957) as the right of a university professor to teach the subject of his specialization "according to his best lights, without fear or favor, from administrative, civil or ecclesiastical authorities." Academic freedom is, therefore, a dual right, *i.e.*, an **individual** as well as an **institutional** right. As an individual right, academic freedom is an extension of the freedoms of speech and press; not only is a university professor free to speak his or her mind about significant contemporary issues and questions; he or she is also free to publish and disseminate the results of his study and research guided only by accepted canons of scholarship and scholarly inquiry. On the other hand, academic freedom is the right of a university to decide: **what should be taught** (*i.e.*, determine the contents of various school curricula); **who should teach** (*i.e.*, establish qualifications for prospective faculty members and the power to hire or fire members of the faculty); and **who should be admitted to study** (*i.e.*, establish appropriate admission requirements for prospective students). Senate Bill 24 as currently written not only emasculates academic freedom as those who have labored in the academy for hundreds of years have always known it; even worse, Senate Bill 24 is a rather cynical and disingenuous way of claiming to uphold and protect academic freedom even as it makes a mockery of it; a classic case of legislative chicanery and legerdemain. For the foregoing reasons, the faculty of Bowling Green State University through its constituent body, the Faculty Senate, registers its strong opposition to this proposed legislation and urges all fair-

mindful and forward-looking members of the Ohio Assembly to defeat the proposed measure.
Prepared by Benjamin N. Muego for the Senate Executive Committee 15 March 2005

© 2008 Ohio Faculty Council [Contact Me](#)