

Testimony on House Bill 758

Ohio House of Representatives Committee on Higher Education and Workforce
Development
Representative Mike Duffey, Chair

Dr. Dan E. Krane,
Chair, Ohio Faculty Council

Chair Duffey, Vice Chair Antani, Ranking Member Ramos, and Representatives Sweeney, Edwards, Gavarone, Goodman, Ingram, Perales, Riedel, Romanchuk, Smith, and Zeltwanger, my name is Dan Krane and I am a professor of Biological Sciences (with an affiliate appointment in Computer Science) at Wright State University. I also have the honor of serving as the Chair of the Ohio Faculty Council which represents the faculty at all of the four-year public universities in the State of Ohio. Thank you for allowing me to appear before you today to give a faculty perspective on House Bill 758 (Forming Open and Robust University Minds Act, regarding free speech on college campuses).

I would like to start by reminding your committee that first and foremost the Ohio Faculty Council is committed to supporting and bringing attention to the critical role that Ohio's institutions of higher education play in revitalizing the economy of the State and the nation by attracting and training an educated workforce. The Ohio Faculty Council firmly supports free and open inquiry in all matters and sees it as being fundamental to the process of discovery and the effective delivery of higher education.

Thank you for giving me this opportunity to give a faculty perspective on academic freedom and free speech on public university campuses.

The Ohio Faculty Council has two general concerns pertaining to HB 758 as introduced: 1) the potential costs associated maintaining a safe learning environment, and 2) possible unintended consequences associated with singling out university campuses for protections that might reasonably be assumed to be already provided under the First Amendment.

First, public institutions of higher education have a duty to secure a safe environment for learning. Multiple events on university campuses including those in Ohio, and especially, political speakers and demonstrators in the past several years, have underscored the need to put in place security measures that come with significant financial costs. It is easy to imagine the number of events that need such measures and their costs growing to a point where they could compromise an institution's ability to deliver a high quality education at an affordable price. HB

758's failure to provide a vehicle for security costs is a significant omission that needs to be directly addressed. A possible solution might include a State fund that public institutions of higher education could rely upon in the event that such costs are incurred.

Second, it is unclear what purpose is served by making property associated with institutions of higher education (as opposed to, for instance, town squares or the Statehouse grounds) special targets of First Amendment rights. The Ohio Faculty Council is concerned that this special consideration may inadvertently result in restrictions on free speech that might otherwise have been allowed. For instance, the reporting requirements, including those in Sec. 3345.0214 (A)(1) and subsections are prohibitively vague and onerous. Requiring institutions to report to the State "any barriers to or incidents of disruption of free expression occurring on campus" assumes that such action is clearly and objectively identifiable. "Free expression" is not defined within this bill and could, to note just one example, be broadly interpreted to include expression of any kind by any person, including those within classroom spaces. Faculty and students must be able to communicate freely but also to draw clear boundaries to speech that might disrupt academic progress. This is just one example of language in the bill that might unduly chill acceptable and necessary speech and expression by professors, administrators, and other students that promotes the academic mission of the university and civil discourse in general. Such chilling effect is exacerbated by the ability of those who think that they have been aggrieved by such "barriers" to seek injunctive relief and compensatory damages against employees acting in good faith in their official capacities (Sec. 3345.0215).

Please know that the same events that have inspired HB 758 have given rise to lengthy and careful discussion at institutions of higher education. The University of Chicago has been a leader in developing a Statement of Principles of Free Expression as long ago as July, 2012¹. Cleveland State University's Faculty Senate, as recently as October of this year, adopted a resolution (included as an attachment to this written testimony) that eloquently and succinctly articulates an institutional affirmation of free speech and academic freedom. As resolutions like Cleveland State's are considered and adopted at other public institutions of higher education in Ohio as well as the Ohio Faculty Council it becomes even less clear that legislation such as HB 758 is needed.

Chairman Duffey and members of the committee, thank you for the opportunity to share with you a university faculty perspective on HB 758. I would welcome any questions you might have for me or the Ohio Faculty Council.

¹ <https://freexpression.uchicago.edu/page/statement-principles-free-expression>

