

For three years, ever since the arrival of Pamela Whitten as President of Indiana University, we have seen incident after incident of attacks on free expression and conflict with faculty and students, culminating in the arrests of peaceful protesters and the training of loaded weapons on two students of color in Dunn Meadow. Of 1100 Gaza protests since last October, there were only 5 incidents involving weapons trained on students—IU was responsible for 2 of those 5.

Now the Whitten Administration is seeking to institutionalize these strictures. The expressive activity policy limits or prevents speech on campus that is not to the administration's liking. The current policies in place for SEA 202 will curtail free speech, especially free speech about diversity, equity, and inclusion for all instructors in all courses.

SEA 202 is not, and never was, a bill about free speech. The Commission on Higher Education in a survey just last year, found that three quarters of Indiana's undergraduates believed there was no problem of free speech on their campuses. The term "intellectual diversity" was invented by a hyper-conservative scholar who has spent his career attacking what he views as the excesses of the civil rights movement.

SEA 202 is a civil rights Trojan Horse, whose true intent is to control university instruction and like similar bills in 28 states, limit or end instruction and programming about diversity, equity, and inclusion. The bill institutes a surveillance system on all Indiana public university campuses and replaces tenure with a five year review. In the first such review in Florida which 202 is modeled after, almost 20% of faculty failed. The bill requires the university to report on all funding for DEI and all possible definitions of DEI in campus programs. That information has been used in Texas, Florida and Utah to close diversity, equity and inclusion programs and fire all DEI staff, even those who had been transferred to other programs.

Responding to such a bill would require a careful and balanced analysis—how could we implement such mandates, while maintaining Indiana University's longstanding traditions of protecting free speech and honoring diversity. So far, what we have received from the Whitten Administration fails to protect Indiana University, and indeed goes beyond it.

The system being used to collect complaints against faculty is EthicsPoint, a commercial software system used by corporations to investigate fraud, abuse and illegal or unethical behavior. There is nothing in the law that mandates that complaints about "intellectual diversity" be anonymous. Yet the interim policy drawn up by the General Counsel allows for anonymous complaints by anyone, whether they are enrolled in that instructor's course or not. A troll in Texas could file a frivolous, even discriminatory, complaint against a faculty of color.

SEA 202 is clever, penalizing instructors not for what they say but for what they don't say. Any time any instructor makes a statement about racism, discrimination, or virtually any other controversial topic, under the doctrine of intellectual diversity, they have to represent all other possible viewpoints, or risk being subject to termination, demotion or salary reduction, either immediately, or as part of the 5 year review. Clearly any sensible and self-protective instructor will be forced into a position of self censorship to avoid such outcomes.

Thus far, the administration has released its policy proposals in a top down manner, with little or no faculty input. To protect the faculty, students and staff of Indiana University, the University Alliance for Racial Justice with the assistance of a number of other faculty and student groups is making six demands.

First, Protect Shared governance, further policy changes to 202 must be made through shared governance, not top-down mandates. A standing or ad hoc committee of the Bloomington Faculty Council should be responsible for a complete analysis of the interim 202 policy, with enough time to gather input from faculty and students about their concerns.

Second, Protect Diversity. To avoid a massive out-migration of faculty (as is currently happening at Florida and Texas universities), IU must develop a comprehensive plan to retain faculty of color and marginalized faculty by proactively offering support to manage spurious or discriminatory SEA 202 complaints. Further research has repeatedly shown that faculty of color and marginalized faculty are more likely to be targeted by discriminatory complaints. Complaints about DEI will cause fear and confusion, leading faculty to self-censor their instruction on diversity, equity, and inclusion. Thus, to avoid violating SEA 202's requirement cannot be construed to "prevent faculty members from teaching... about diversity, equity, and inclusion" complaints about diversity, equity and inclusion should be disallowed.

Third, Protect Due Process. The university must find an alternative method for dealing with complaints to EthicsPoint. Policy on 202 complaints should follow current IU policy on complaints against instructors, which disallows anonymous complaints. Exploration of such complaints should, as in current policy, begin at the departmental level and escalate only if necessary. Complaints should be limited to those in the class who have directly witnessed the subject of their complaint.

Fourth, Protect Academic Freedom. A campus wide forum on the history and purpose of tenure should be held resulting in recommendations on how to preserve the institution of tenure, put in place in the 1940s in response to academic purges in Nazi Germany in the 1930s.

Fifth, Protect Students and Staff. Extend free speech protections to faculty to all non-tenure track instructors, including adjuncts and graduate student instructors. Secure a promise from the university administration that they will not follow the example of the University of Florida or the University of Texas at Austin and terminate DEI staff or programs.

Finally, Protect the Future. Monitor the impact of SEA 202 on IU's campuses by collecting and monitor disaggregated data both on complainants and those who receive complaints to monitor for disproportionality in the process.

Protection of this University, our University, is not a matter of increased police presence or imposing additional limits on free expression. Rather Protecting IU means protecting its values, its principles and the right of its students and faculty to be part of an institution that continues to respect free speech and honor diversity.