



March 20, 2024

The Honorable Virginia Foxx
Chairwoman
Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
Committee on Education and the Workforce
2101 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Foxx and Ranking Member Scott:

On behalf of the higher education associations listed below, I write regarding H.R. 7683, the Respecting the First Amendment on Campus Act. We oppose this legislation and urge the Committee to work with stakeholders to develop a carefully tailored bill that would address any specific concerns that may exist and would avoid the problems created by this heavy-handed approach.

Colleges and universities are strongly committed to creating campus environments that foster and promote open, intellectually engaging debate informed by a diverse set of voices and perspectives. Freedom of speech, free inquiry, and academic freedom are fundamental to the quest for knowledge and to the educational mission of higher education institutions. Institutions take seriously their obligations to uphold the laws protecting these freedoms, which, for public institutions, include the First Amendment. Consistent with these obligations, institutions must also provide safe learning environments that are free from discrimination and harassment and in compliance with applicable federal and state laws, including Title VI of the Civil Rights Act. Any proposed federal legislation in this area must reflect these twin institutional obligations.

Given the recent introduction and notice of a markup, we have had only a few days to prepare comments on this legislation. Below, we identify several provisions of significant concern, though it is far from an exhaustive list.

Among these concerns is the overarching fact that H.R. 7683 would inject the federal government in higher education in a new and counterproductive fashion by imposing a rigid, highly prescriptive, and costly regulatory and enforcement framework on nearly 2,000 public colleges and universities. These institutions are already subject to the protections afforded by the First Amendment and would therefore have to implement a new campus-wide compliance scheme on top of existing practices. As an example of the difficult and costly mandates that the legislation would impose, it would require institutions to develop “objective, content- and view-point neutral and exhaustive standards” in allocating funds to student organizations, which are extraordinarily varied. This could create a regulatory quagmire.

Under the bill's enforcement provisions, failure to comply with any one of a multitude of detailed policy disclosure and other requirements would result in an automatic loss of Title IV funding for all students at the institution for at least a year, and often significantly longer. This sanction is inconsistent with other institutional Title IV policies and out of proportion to the infractions themselves. Furthermore, punishing students with the loss of federal aid will not further H.R. 7683's purported goals or advance student achievement in any way. While the bill exempts private institutions from some of its most onerous requirements, the legislation would nonetheless create a dangerous precedent that encourages further governmental intrusions into matters of academic freedom and institutional autonomy.

Given the Committee's recent focus on concerns regarding antisemitism and the need for campuses to increase their efforts to provide safe environments free from discrimination for all students, we are puzzled by the bill's inclusion of provisions that would tie the hands of campus administrators to address these issues and potentially make campuses less safe. For example, the bill would mandate that any publicly accessible area of the campus is a "public forum" — open to any person even if they are not a student, staff, or faculty member. Further, prohibiting institutions from considering the potential reaction of students and the public at an event when determining security fees to be assessed will make campuses less safe, since preparing for controversial speakers often entails greater security costs.

Rather than respecting the First Amendment and what has been done to apply its principles across a wide range of higher education institutions, H.R. 7683 would undermine campus efforts to foster free speech and to meet institutional legal obligations to provide safe learning environments free from unlawful discrimination. Given these concerns, we oppose H.R. 7683. We urge the Committee to reconsider this proposal and to work with stakeholders to find solutions that will enhance, rather than complicate and undermine, campus efforts in these areas.

Sincerely,



Ted Mitchell
President

On behalf of:

- American Association of Community Colleges
- American Association of State Colleges and Universities
- American Council on Education
- Association of American Universities
- Association of Public and Land-grant Universities
- National Association of Independent Colleges and Universities