

NATIONAL
ASSOCIATION
of SCHOLARS

May 31, 2019

Kevin V. Schieffer
President
South Dakota Board of Regents
306 E. Capital Ave, Ste. 200
Pierre, SD 57501

Dear President Schieffer,

I am delighted to learn that the South Dakota Board of Regents has begun to implement HB 1087, South Dakota's new law to promote free speech and intellectual diversity in the state's public university system. You have solicited public comment on how to fulfill the intent of the new legislative requirement, and in particular on "the need to develop (a) some baseline assessment on the degree to which South Dakota Regental institutions are or are not meeting that definition and objective today, (b) suggestions on how to do so more effectively (to the extent a shortcoming is defined), and (c) some legitimate and measurable metrics to help define progress in the future." I am aware of the Board of Regents' longstanding commitment to free speech and intellectual diversity, and we enthusiastically endorse your desire to find a practical means to fulfill the letter and the spirit of the new law. I write to provide detailed suggestions to achieve that goal.

I write as President of the National Association of Scholars (NAS). NAS is a network of scholars and citizens united by our commitment to academic freedom, disinterested scholarship, and excellence in higher education. As part of our mission, we support academic freedom and intellectual diversity throughout American higher education. We have thirty years of experience in providing support for the principles and the institutional practice of intellectual diversity.

I. Principles of Intellectual Diversity

Our programmatic suggestions below should embody these general principles:

1. Universities' campus culture should actively foster intellectual diversity.
2. Universities should minimize the number of regulations, offices, and individuals that can act as chokepoints to reduce intellectual diversity.

3. The primary mission of universities' public events programming should be to seek out intellectual diversity.
4. Universities should seek a diversity of viewpoints, not a diversity of any category of people.
5. Universities should embrace intellectual diversity as a guiding ideal, and not regard it as a requirement which they can satisfy with token efforts and lip service.

II. The Campus Intellectual Diversity Act: The Office of Public Policy Events

We believe that the model state-level legislation "The Campus Intellectual Diversity Act," drafted by Stanley Kurtz, a Senior Fellow at the Ethics and Public Policy Center, provides an excellent model for providing the data necessary for legitimate and measurable metrics of intellectual diversity.¹ (I attach to this letter a copy of The Campus Intellectual Diversity Act, Stanley Kurtz's explanation and defense of it, and the NAS's endorsement of this model.)

The keystone of Dr. Kurtz's proposal is the establishment of an Office of Public Policy Events on every campus of the state university system, which reports directly to either the University Office of Reporting and Analytics (the university office responsible for compiling and reporting the Integrated Postsecondary Education Data System, IPEDS, Graduation Rate Survey), or to the Office of General Counsel on that campus.

This Office of Public Policy Events will be responsible for:

- 1) Organizing intellectually diverse debates and lectures;
- 2) Seeking out speakers who articulate widely-held perspectives on public policy issues that are poorly represented on campus;
- 3) Providing maximum access to these events to campus members and the general public;
- 4) Maintaining a permanent, publicly accessible calendar of all sponsored events;
- 5) Providing this calendar annually to the public, the Governor, and the State Legislature;
- 6) Providing a publicly accessible video record of all sponsored events.

The guidelines laid out in the Campus Intellectual Diversity Act will not only provide the Board of Regents the material to develop its own metrics of intellectual diversity but also allow

¹ Stanley Kurtz, "The Campus Intellectual Diversity Act," National Association of Scholars, February 12, 2019, https://www.nas.org/articles/the_campus_intellectual_diversity_act.

the public, the Governor, and the State Legislature to make their own informed judgments about the intellectual diversity in South Dakota's public universities.

III. Intellectual Diversity Metrics

“Legitimate and measurable metrics” may not exist for intellectual diversity, since “intellectual diversity” is an imprecisely defined, qualitative concept. We also caution the Board against relying too heavily on metrics, which can only imperfectly proxy intellectual diversity.

With that caution in mind, we recommend these principles as useful for devising intellectual diversity metrics:

- 1) We recommend that the Office of Public Policy Events we have recommended above be responsible for gathering and publishing all intellectual diversity metrics.
- 2) We recommend that the Board of Regents consult Andy Stirling's Diversity Index, and the associated scholarly literature, as the Board frames its own metrics.² Any metric should incorporate Stirling's values of *balance*, *disparity*, *parsimony*, *robustness*, *transparency*, and *variety*.
- 3) Lisa George and Felix-Oberholzer Gee used keyword counts from transcripts to measure diversity in local television news.³ We recommend a metric that uses the publicly accessible video record of all sponsored events provided for by the Campus Intellectual Diversity Act as material to make transcripts and keyword count analyses.
- 4) University offices and departments each possess their own institutional intellectual commitments, articulated by educational practices such as hiring practices, sponsored events, required courses, syllabus construction, and classroom environment. We recommend that the Board:
 - a. apply its intellectual diversity metrics to each component of the university;
 - b. publicize this data annually; and
 - c. publicly evaluate how well each office and department has performed on these intellectual diversity metrics.

² Andy Stirling, “A General Framework for Analysing Diversity in Science, Technology and Society,” *Journal of the Royal Society Interface* 4, 15 (2007), pp. 707-19, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2373389/#>.

³ Lisa M. George and Felix Oberholzer-Gee, “Diversity in Local Television News,” *US Federal Communications Commission Quadrennial Review*, Washington, DC, July 2011, <https://docs.fcc.gov/public/attachments/DOC-308602A1.pdf>.

- 5) *Intellectual diversity* is distinct from, and generally opposed to, *equity*, *diversity*, and *inclusion*, as they are currently used in higher education. We recommend that the Board clearly distinguish *intellectual diversity* from these competing concepts. We also recommend that the Board ensure that their metrics *only* measure intellectual diversity, and not *equity*, *diversity*, or *inclusion*. In particular, the board should *not* use race, ethnicity, gender, sexual orientation, or other identity groups as proxies for intellectual diversity.
- 6) To avoid conflicts of interest, and to increase public confidence, we recommend the Board of Regents appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to draft intellectual diversity metrics, identify the keywords and categories that these metrics will measure, and define all necessary concepts (such as *intellectual diversity* itself) for these metrics.

IV. Civics and American History Requirements

Early versions of HB 1087 included the following two sections:

- 1) That the Board of Regents require students to take three credits of United States history and three credits of United States government as a condition of graduation; and
- 2) That the Board of Regents require students to correctly answer at least eighty-five percent of the questions on a civics test drawn from the same body of questions posed to applicants for naturalization.⁴

A letter to the Board of Regents from Senator Jim Stalzer and Representative Sue Peterson establishes the reason that these requirements were initially included in HB 1087: that a proper education in American history and government will teach students the factual and theoretical bases for valuing intellectual diversity.⁵

The NAS believes that Senator Stalzer and Representative Peterson were correct, and we recommend that the Board of Regents replace its Social Science General Education Requirement with these civics and American history requirements. We know that the Board of Regents does not merely want to do the minimum required of it by law to promote intellectual diversity, and we think that the voluntary enactment of these requirements would strongly

⁴ HB 1087, Versions of January 25, 2019 (<https://sdlegislature.gov/docs/legsession/2019/Bills/HB1087P.pdf>) and February 7, 2019 (<https://sdlegislature.gov/docs/legsession/2019/Bills/HB1087HED.pdf>).

⁵ Jim Stalzer and Sue Petersen to Molly Weisgram, "RE: SD Board of Regents policies on free speech and intellectual diversity," October 5, 2018, <https://www.sdbor.edu/administrative-offices/infogovtrelations/Documents/10.05.2018%20Sen.%20Stalzer%20and%20Rep.%20Petersen%20Letter.pdf>.

argue to South Dakota’s elected representatives that the university system is a trustworthy guardian of intellectual diversity, which needs relatively little oversight.

The state governments of Arkansas, California, Georgia, Missouri, Nevada, Texas, Utah, and Wyoming have all enacted similar American civics and history general education requirements. We recommend that the Board of Regents examine these state university systems to see how best to put such a requirement into practice.

V. Intellectual Diversity Initiatives

The NAS recommends that the Board of Regents undertake several further intellectual diversity initiatives that respond to concerns expressed by South Dakota’s elected representatives. All these initiatives will enhance intellectual diversity, and further establish to South Dakota’s elected representatives that the university system is a trustworthy guardian of intellectual diversity, which needs relatively little oversight.

- 1) **Programmatic Initiatives.** Senate Majority Leader Kris Langer, House Majority Leader Lee Qualm, Representative Sue Peterson, and Senator Jim Stalzer asked the Board of Regents “Should the BOR consider advocating that South Dakota public universities offer minors in ‘American Constitutional Heritage,’ ‘Conservative Political Thought,’ ‘The Great Books,’ or ‘The Heritage of Ancient Greece and Rome’? ... In general, can the BOR develop/advocate more minors similar to ‘The Great Books’[?] ... Wouldn’t such a reprioritization promote intellectual diversity?”⁶

The NAS believes that creating such programs would indeed promote intellectual diversity, and we recommend that the Board of Regents take immediate steps to establish such programs in all public university campuses. We recommend the Board of Regents appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to draft the mission statement and programmatic scope of such programs. We also recommend that the Board of Regents give these programs priority in its funding requests to the South Dakota Legislature.

- 2) **Reduce the Diversity, Equity, and Inclusion Bureaucracy.** Senate Majority Leader Kris Langer, House Majority Leader Lee Qualm, Representative Sue Peterson, and

⁶ Kris Langer, Lee Qualm, Sue Peterson, and Jim Stalzer to Paul B. Beran, “RE: SD Board of Regents policies on free speech and intellectual diversity,” December 10, 2018, <https://www.sdbor.edu/administrative-offices/infogovtrelations/Documents/12.10.2018%20Sen.%20Stalzer%20and%20Langer%20and%20Rep.%20Qualm%20and%20Peterson%20Letter.pdf>.

Senator Jim Stalzer asked the Board of Regents about the possibility of reducing the size of the Diversity, Equity, and Inclusion bureaucracy.⁷

The NAS believes that reducing the size of these bureaucracies would also promote intellectual diversity, since these bureaucracies tend to be dominated by staff on the political left, and to promote events that are uniformly on the left, to the detriment of intellectual diversity.⁸ We recommend that the Board of Regents undertake the following specific initiatives:

- i. **Separate the Diversity, Equity, and Inclusion Bureaucracy from all Intellectual Diversity Programs:** We recommend that the Board of Regents ensure that no members of the Diversity, Equity, and Inclusion bureaucracy be appointed to our proposed Office of Public Policy Events, or to any other office charged with promoting intellectual diversity.
- ii. **Define Key Words:** We recommend the Board of Regents appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to define key words used by the Diversity, Equity, and Inclusion bureaucracy. These words should include not only *diversity*, *equity*, and *inclusion* themselves but also words such as *safety* and *harm*, which are frequently used to justify abrogating intellectual diversity.
- iii. **Define Missions:** We recommend the Board of Regents appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to define the mission of the Diversity, Equity, and Inclusion bureaucracy, and to define the means these bureaucracies will be allowed to pursue their mission. We recommend that this commission be charged to define these missions and powers as narrowly as possible, and in ways that allow the bureaucracies to be subject to transparent public scrutiny.
- iv. **Sunset the Diversity, Equity, and Inclusion Bureaucracy:** We further recommend that the commission defining the mission of the Diversity, Equity, and Inclusion bureaucracy provide set, quantifiable targets for diversity, equity, and inclusion, and that the bureaucrats' mission be defined so that their jobs

⁷ Kris Langer, Lee Qualm, Sue Peterson, and Jim Stalzer to Paul B. Beran, "RE: SD Board of Regents policies on free speech and intellectual diversity," December 10, 2018, <https://www.sdbor.edu/administrative-offices/infogovtrelations/Documents/12.10.2018%20Sen.%20Stalzer%20and%20Langer%20and%20Rep.%20Qualm%20and%20Peterson%20Letter.pdf>.

⁸ Samuel J. Abrams, "Think Professors Are Liberal? Try School Administrators," *New York Times*, October 16, 2018, <https://www.nytimes.com/2018/10/16/opinion/liberal-college-administrators.html>.

sunset—automatically disappear—when those targets are achieved. We additionally recommend that no diversity, equity, and inclusion position be funded that cannot be defined in terms of quantifiable targets.

- v. **Strategic Plan to Eliminate the Diversity, Equity, and Inclusion Bureaucracy:** We recommend that the Board of Regents draft a Strategic Plan that will provide a detailed schedule for the South Dakota public and elected representatives, outlining the stages by which they will eliminate the Diversity, Equity, and Inclusion bureaucracies in South Dakota public universities.
- 3) **Foster Classroom Intellectual Diversity.** Professors should foster intellectual diversity within their classrooms and seek to teach all sides of major controversies. We recommend that the Board of Regents undertake the following specific initiatives:
- i. **Intellectual Diversity Rubrics.** The course approval process, approval of courses to satisfy general education requirements, student course evaluations, common reading programs, annual reviews, and the Office of Institutional Research, Planning & Assessment’s evaluation of departments’ strategic goals and student learning outcomes should all incorporate Intellectual Diversity rubrics.
 - ii. **Public Syllabi.** To allow the public to judge whether classes are intellectually diverse, an archive of all university syllabi should be posted publicly on the university’s web site.
 - iii. **Micro-grants.** The university should fund micro-grants of *ca.* \$500 for professors who wish to revise their courses so that they teach all sides of major controversies.
 - iv. **Orientation.** Orientation for new students should include a session publicizing the university’s legal and administrative commitments to intellectual diversity and inviting students to submit ideas for intellectually diverse events.
 - v. **Annual Surveys.** The Office of Public Policy Events should distribute, analyze, and publicize annual surveys of students and faculty on the climate of intellectual diversity. The Office of Public Policy Events should also survey faculty about whether they teach all sides of major controversies, analyze the data by discipline and topic, and provide their data to the legislature and the public.
 - vi. **Responsibility.** The Board of Regents should appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to draft the regulations that put these initiatives into practice.
- 4) **Limit Discretionary Power to Restrict Intellectual Diversity.** Intellectual diversity ought to be the default in higher education. Administrators and faculty should have as

few discretionary powers possible to restrict intellectual diversity. For example, administrators should only be able to invoke “safety” to keep a speaker from campus in strictly defined circumstances, where “safety” is defined in strictly physical terms, and “rioters’ vetoes” are not allowed to prevent speakers from appearing on campus. We recommend the Board of Regents appoint a bipartisan commission, composed of figures who are not themselves employed in public education, to examine all administrative regulations and powers, and draft revisions of all standard procedures so as to make intellectual diversity the default, and require set, rigorous procedures to justify any action that might restrict intellectual diversity.

5) **Protect Intellectual Diversity in All Hiring, Promotion, and Funding Decisions.**

The Board of Regents should ensure that the hiring, firing, and promotion of all faculty and staff are made on the basis of merit and fitness for the job, with no regard for the candidates’ ideological or political views. In addition, the organization and funding of events and student clubs should make no reference to the political or religious viewpoints of the invited speakers or the student organizations. The Board of Regents should undertake these specific policies:

- i. **Bar Ideological Litmus Tests in All Hiring Decisions.** South Dakota public universities should not ask applicants to full-time or part-time faculty or staff positions to describe their ideological viewpoints, or to describe their commitments to diversity, social justice, sustainability, equality and inclusion, or other political or ideological issues. The Board of Regents should ban all such ideological questions in written applications, and in formal or informal verbal interviews.
- ii. **Bar Ideological Litmus Tests in All Promotion Decisions.** Likewise, South Dakota public universities should not ask staff or faculty applicants for promotion or tenure to describe their ideological viewpoints, or to describe their commitments to diversity, social justice, sustainability, equality and inclusion, or other political or ideological issues. The Board of Regents should ban all such ideological questions in written applications, and in formal or informal verbal interviews.
- iii. **Bar Discriminatory Use of Campus Funding.** In funding events (whether organized by faculty, staff or students) and in awarding student activity fees and other funding to student organizations, South Dakota public universities should not discriminate on the basis of political or religious viewpoints. In particular, the Board of Regents should prohibit public universities from denying to a religious student organization any right, benefit, or privilege that is generally afforded to other student organizations at the institution (including full access to the facilities of the institution, official recognition of the organization by the institution, and access to student activity fees), or otherwise discriminating against a religious student organization (including by charging security fees for

events) because of the religious beliefs, practices, speech, membership standards, or standards of conduct of the religious student organization.

- iv. **Bar “All-Comers” Policies that Restrict the Rights of Religious Student Groups.** In order to protect intellectual diversity, the Board of Regents should ensure that religious student organizations do not face discrimination. All religious student organizations should be permitted to adopt a statement of faith and code of conduct and require assent to these documents by leaders of their organizations. So-called “all-comers” policies abrogate these basic rights by requiring religious organizations to accept non-professing students as organization leaders.
- v. **Bar Quotas and Limits for Student Organizations.** Some universities have barred the formation of politically conservative student organizations, on the grounds that another conservative club currently exists—while simultaneously permitting multiple politically liberal student organizations.⁹ The Board of Regents should formally bar such discriminatory quotas and ensure that South Dakota students enjoy the right to form groups and practice intellectual diversity.
- vi. **Bar Security Fees on the Basis of the Content of Speech.** The Board of Regents should formally adopt a policy that bars public universities from charging student organizations security fees for events whose content the university deems “controversial” or otherwise requiring extra security. Requiring security fees on the basis of the potential reaction of protesters represents an unconstitutional heckler’s veto, and reduces intellectual diversity.¹⁰

VI. Summary

The NAS’s strongest recommendation is that the Board of Regents use “The Campus Intellectual Diversity Act,” as a model for regulations to provide the data necessary for legitimate and measurable metrics of intellectual diversity. Above all, the Board of Regents should establish an Office of Public Policy Events on each public university campus,

⁹ The University of California Berkeley, for example, barred the formation of a Young Americans for Liberty Club in 2017 on the grounds that it was “too similar” to the Cal Libertarians group. See Anthony Gockowski, “Conservative Group Sues Berkeley for Denying Club Status,” *Campus Reform*, December 5, 2017, <https://www.campusreform.org/?ID=10233>.

¹⁰ In *Forsyth County v. Nationalist Movement* (1992) the Supreme Court held that it is unconstitutional for public authorities to impose a fee for speaking based on the estimated costs of security. *Forsyth County v. Nationalist Movement*, Oyez, <https://www.oyez.org/cases/1991/91-538>.

responsible for sponsoring, organizing, and recording intellectually diverse events on campus, and also responsible for analyzing these events and providing intellectual diversity metrics to the Board of Regents, South Dakota's elected representatives, and the people of South Dakota.

We also recommend that the Board of Regents establish intellectual diversity metrics that incorporate *balance, disparity, parsimony, robustness, transparency, and variety*, and use the publicly accessible video record of all sponsored events provided for by the Campus Intellectual Diversity Act as the material with which to make transcripts and keyword count analyses. While it is not necessary to comply with state law, we strongly encourage the Board of Regents to increase intellectual diversity in the public university system by establishing new American civics and history general education requirements; establishing new academic programs that enhance intellectual diversity; reduce the size and mission of the diversity, equity, and inclusion bureaucracies; and make sure that no members of the diversity, equity, and inclusion bureaucracies be appointed to the Office of Public Policy Events, or to any other office charged with promoting intellectual diversity.

We also strongly recommend that the Board of Regents formally bar policies that effectively limit intellectual diversity, such as ideological litmus tests in hiring, promotion, and funding decisions, quotas on campus student organizations, and demands for security fees and other restrictions on campus events on the basis of their content.

We make these recommendations to the Board of Regents in full confidence that it seeks enthusiastically to infuse the spirit of intellectual diversity throughout South Dakota's public universities.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "P. W. Wood", with a long horizontal flourish extending to the right.

Peter W. Wood
President
National Association of Scholars

Appendix 1: The Campus Intellectual Diversity Act

Stanley Kurtz, “The Campus Intellectual Diversity Act,” National Association of Scholars, February 12, 2019, https://www.nas.org/articles/the_campus_intellectual_diversity_act.

WHEREAS, the advancement of knowledge that is the fundamental purpose of the university is crucially facilitated by the fearless sifting and winnowing of a wide diversity of views; and

WHEREAS, open discussion and debate of contested public policy issues from diverse perspectives provides essential preparation for mature citizenship and an informed exercise of the right to vote; now, therefore,

Be It Enacted:

Section 1.

The Board of Trustees of the state university system shall establish, fund, and staff an Office of Public Policy Events on every campus of the state university system, the responsibilities of which shall include, at least, the following:

- A. Organizing, publicizing, and staging debates, group forums, and individual lectures that address from multiple, divergent, and opposing perspectives an extensive range of public policy issues widely-discussed and debated in society at large.
- B. Inviting speakers who hold a wide diversity of perspectives, from within and outside the campus community, to participate in debates, group forums, and individual lectures, with particular attention to inviting participants from outside the institution who hold perspectives on widely debated public policy issues otherwise poorly represented on campus.
- C. Providing, where necessary, honoraria, travel, and lodging expenses to participants in debates, group forums, and individual lectures organized by the Office of Public Policy Events, from outside the campus community.
- D. Maintaining a permanent, publicly accessible, searchable, and up-to-date calendar in print and Internet-accessible formats listing all events sponsored by the Office of Public Policy Events, and all other debates, group forums, and individual lectures open to the entire campus community at a given institution within the state university system, that address public policy issues, itemizing the title of the event or lecture, the name and institutional affiliation of the speaker or speakers, and the office, institute, department, program, or organization, that sponsored the event, excluding those events sponsored by off-campus groups in rented facilities.
- E. Delivering a printed and a pdf-formatted copy of the previous academic year’s annual public policy event calendar for all institutions in the state university system, arranged

chronologically for each individual institution within the state university system, to the public, the Governor, and the State Legislature by September 1 of each year, and preserving and making available to the public copies of all yearly event calendars in the libraries of the state university system.

- F. Making publicly available a complete Internet-accessible video record of every debate, group forum, and individual lecture organized by the Office of Public Policy Events, mounting that video record on the Internet within ten in-session working days of the event in question, and maintaining that video record in a fully public, Internet-accessible form for at least five years following the date of the event. Videos records of every debate, group forum, and individual lecture organized by the Office of Public Policy Events at a given institution within the State University System should also be permanently preserved within, and made available to the public through, the library of that institution.

Section 2.

At its discretion, for any given campus of the State University System, the Board of Trustees of the State University System may assign the duties of the Office of Public Policy Events described in this Act to an existing administrative office, so long as an administrator in that office is designated as the Director of Public Policy Events for that campus. In such cases, the duties and reporting responsibilities of the Office of Public Policy Events described in this Act shall apply to the Director of Public Policy Events and the Director's staff.

Section 3.

The Office of Public Policy Events on any given campus of the State University System shall report directly to either the University Office of Reporting and Analytics (the university office responsible for compiling and reporting the Integrated Postsecondary Education Data System, IPEDS, Graduation Rate Survey), or to the Office of General Counsel on that campus.

Section 4.

All debates, group forums, and individual lectures organized by the Office of Public Policy Events at a given institution shall be open to all students, faculty, and staff at that institution, and, unless restricting attendance by persons unaffiliated with the university is necessary to achieve a compelling governmental interest, to the general public as well.

Section 5. (Optional)

[If so desired, the legislature can authorize funding for Offices of Public Policy Events within the State University System. Otherwise, funding for these offices can be taken out of the existing university appropriation.]

Section 6.

While the legislature offers no specific directives on the number of events, the choice of individual event topics, or the particular viewpoints to be held by participants, each Office of Public Policy Events shall aspire to:

- A. Organize a substantial number of all three event-types: debates, group forums, and individual lectures.
- B. Obtain the participation of speakers who represent widely-held views on opposing sides of the most widely-discussed public policy issues of the day.
- C. Invite and host speakers who can ably articulate widely-held perspectives on public policy issues otherwise poorly represented on campus.

Definitions:

1. "Debate" is defined as an event at which two or more participants speak in favor of opposing approaches to the same public policy dispute, after which each participant is allotted time to address and rebut the position presented by the opposing speaker or speakers.
2. "Group Forum" is defined as an event at which two or more speakers address a public policy dispute from divergent or opposing perspectives, after which each participant is allotted time to address questions from the audience and to comment on their fellow speakers' positions, if they so choose.

Appendix 2: Stanley Kurtz's Rationale for "The Campus Intellectual Diversity Act"

Stanley Kurtz, "The Campus Intellectual Diversity Act: A Proposal," *The National Review*, February 12, 2019, <https://www.nationalreview.com/corner/the-campus-intellectual-diversity-act-a-proposal/>.

America's colleges and universities lack intellectual diversity. Knowledge advances through debate, yet our universities are dominated by an intellectual monoculture, while public-policy debates common to society at large are scarcely to be found in the halls of the academy.

This problem can be addressed in a way that respects academic freedom. Colleges help prepare students for citizenship, in part by exposing them to outside speakers, panel discussions, and debates that explore the public-policy disputes of the day. Action can be taken to ensure that our universities allow students to consider a wide range of perspectives on controversial public issues, without interfering with the classroom. This will not only advance knowledge; it will shore up our tenuous civil peace in an era when America's sense of shared nationhood is threatened by political polarization.

Alarming campus shout-downs of visiting speakers are part of a broader problem. The real targets of those shout-downs are not the speakers, who leave campus and go on with their own lives, but the faculty and students who remain. The shouters implicitly say, "If we can silence this visiting speaker, think what we can do to you if you get out of line." The result is a campus culture of self-censorship in which controversy is avoided and debate disappears. Shout-downs both reflect and reinforce the underlying intellectual monoculture. Restoring a culture of respectful discussion and debate will thus bolster civility, safeguard liberty, strengthen citizenship, and deepen knowledge.

The proposal I present here expands upon an idea first suggested by George La Noue, professor of Political Science and Public Policy at the University of Maryland, Baltimore County. La Noue develops this idea and presents the research behind it in his forthcoming book with Carolina Academic Press, *Silenced Stages: The Loss of Academic Freedom and Campus Policy Debates*.

While the model legislation I present here can be applied by state legislatures to public university systems, it is also perfectly possible for college or university trustees at public or private institutions to adopt this proposal on their own.

The idea is simple. Universities can be directed to establish an Office of Public Policy Events (or to assign its duties to an existing administrative office). The new office would have two key responsibilities. First, the office should arrange for debates, panel discussions, and individual lectures from a wide diversity of viewpoints on current public-policy disputes. Participants should be drawn from across the political spectrum, but the office should give particular

attention to inviting speakers who hold viewpoints otherwise poorly represented on campus. Second, the office should compile and make public a list not only of the events that it sponsors, but of all events related to public affairs on the campus as a whole. Any debate, policy forum, or individual speaking event open to the entire campus community should be included on the list, with the topic, event title, participants, affiliations, and sponsorship noted. The result will be a yearly event calendar from which the extent and breadth of public-affairs debate on campus will be evident to both the university community and the general public.

La Noue researched this issue by investigating on-campus policy debates, and forums where divergent viewpoints were presented, in 24 areas of national policy, including income inequality, LGBT issues, regulatory policy, U.S. role in the Middle East, criminal justice, electoral politics, and gun policies, among others. He accessed campus calendars for 2014 and 2015 in a stratified national sample of 97 universities and colleges and 28 law schools enrolling 991,802 students annually. La Noue concludes that: “For most students in American higher education, the opportunity to hear on-campus debates about important public policy issues does not exist.” A few elite universities and law schools were somewhat better at sponsoring policy debates than the great majority of other schools, but although environmental and health policy were frequent topics, “immigration, abortion, government financing, international trade, speech, sexual assault, affirmative action, and even gun policies were almost never debated publicly on campus in 2014 and 2015.”

Consider Middlebury College where, famously, Charles Murray was shouted down in 2017, and his faculty host, Allison Stanger, was assaulted. La Noue points out that, according to its 2014 and 2015 calendars, Middlebury sponsored no policy debates, only one forum with divergent policy viewpoints, and four forums that may or may not have included significant viewpoint diversity. This prompts La Noue to ask whether the Middlebury administration helped perpetuate the atmosphere of ideological homogeneity that contributed to the Murray fiasco.

La Noue’s research focuses on debates, and forums that present divergent perspectives, rather than on individual speakers. We have good reason to suspect that there is little intellectual diversity in speaker invitations as well. From time to time the website *Campus Reform* publishes surveys of invited speakers for campuses that make records available. These reports show that conservative speakers on campus are greatly outnumbered by speakers on the Left. Requiring colleges and universities to keep a record of public-affairs related events would improve our ability to assess this issue, and would encourage universities to sponsor more debates, panels, and individual lectures from diverse perspectives.

This proposal raises a number of legitimate questions that I will address in turn: 1) Why should state legislatures take action on this issue? 2) Why add another administrative office when the growth of campus bureaucracy is already out of control? 3) Will this idea actually succeed in expanding intellectual diversity on campus, or will administrators, faculty, and students find a way to subvert its intent?

If the campus marketplace of ideas was functioning properly, legislative adoption of this proposal would be unnecessary. In that case, an intellectually diverse faculty committed to wide-ranging debate would already be inviting representatives from all sides of contested public-policy issues to campus. The reason nothing of the sort is happening is that a politically one-sided professorate is reluctant to expose students to competing perspectives. Nor will this situation change in the foreseeable future.

The tenure system ensures that a narrow status quo will continue, since the tenure process has been abused to create an unbreakable intellectual monopoly. The diversity of public views is no longer even fairly presented on campus, much less discussed. Self-censorship and timidity reign in place of fearlessness.

This is true for administrators as well as faculty. While administrators are as ideologically one-sided as faculty, other factors are at work in their case. According to La Noue, administrators have become risk averse. They prefer campus tranquility even at the cost of avoiding normal debate, and therefore hesitate to cross campus groups that seek to control permissible speech. Shout-downs have intimidated administrators who might otherwise have sponsored events promoting robust exchange of opinion.

With administrators and faculty averse to debate from across the political spectrum, it is up to trustees and legislators to step in. Certainly, college and university trustees could establish an office of Public Policy Events that would sponsor public policy debates and lectures from a wide range of perspectives and compile a public list of all such campus events. Indeed, at private universities, trustees are the only body that can adopt this proposal.

In the case of public universities, however, there are advantages to legislative action. Legislatures have greater independence from universities than trustees do, and are thus more likely to ensure that universities actually invite speakers and sponsor debates across the political spectrum. Legislatures exercise the power of the purse. If they authorize an office designed to broaden the range of campus speakers and public debates, yet the intellectual monoculture continues, reduction in university funding could result. Once the range of policy debate on campus is openly reported, the public will surely weigh in as well. In my view, the most likely path to reform is legislative action. After legislatively established Offices of Public Policy Events show success at public universities, the practice would likely spread to private colleges as well.

Conservatives rightly object to bureaucratic interference with the free market. Yet there is no free market of ideas in academia. On the contrary, tenure has been misused to consolidate the opposite, an intimidating and secure monopoly. Hence, an administrative office is a perfectly legitimate route to reform. Indeed, cases in which market mechanisms are specifically blocked are precisely where administrative action is required.

Moreover, this proposal does not require added bureaucratic personnel. The model bill allows trustees either to establish and staff an independent Office of Public Policy Events, or to assign its tasks to an existing administrative office. So, for example, trustees may create a dedicated

Office of Public Policy Events on a state's flagship campus, while assigning the same tasks to an existing Student Affairs office on other campuses. In some states, no new office may be established at all.

Will it work? Even if a legislature establishes an Office of Public Policy Events and charges it with staging debates, policy forums, and individual lectures from a wide range of perspectives — particularly those otherwise poorly represented on campus — won't administrators and faculty simply continue to construct one-sided events?

Administrators at public universities take their relationships with the legislatures that authorize their funding very seriously. Once they are responsible for compiling and publishing a detailed public record of campus-policy events, it will be difficult to keep them one-sided, particularly in the face of an explicit legislative directive to the contrary. The existence of an office (or individual administrator) specifically responsible for promoting intellectual diversity in campus speaking events will make it especially difficult to avoid administrative accountability.

The American people have every right to be concerned about campus intellectual diversity, especially at publicly funded universities that educate citizens with a vast diversity of views on politics and policy. Nothing suggested here interferes with the conduct of professors in the classroom. Exposing citizens to a wide range of views through debates, policy forums, and lectures is part and parcel of a university's mission, and a perfectly legitimate concern of the public and their elected representatives.

There is, in fact, a precedent of sorts for this proposal at the federal level. Many federal grants to colleges and universities require that recipients undertake "public outreach." In the case of federal grants to programs of "area studies" under Title VI of the Higher Education Act, for example, Congress requires programs of Middle Eastern Studies, Latin American Studies, African Studies, etc. receiving federal grants to organize public forums on cultural and policy issues in these regions. Those programs are open to the university community and to the public at large. In keeping with this precedent, debates, forums, and lectures organized by the Office of Public Policy Events should be open to the university community and to the public, and publicly available videos of these events should be mounted online and preserved in university libraries.

Releasing information on the range of such programs will encourage accountability to the public by way of enrollment. Campuses that excel at sponsoring open debate and discussion on issues of wide concern will likely be favored by parents and students. So the reform suggested here will actually encourage market accountability, yet without traversing academic freedom.

Administrators will find it difficult to object to an office that promotes debate and discussion from diverse perspectives. Nevertheless, at least some administrators will likely resist a proposal that could turn them into targets of protests by the very groups they fear to cross. When administrators themselves invite speakers who run afoul of current campus orthodoxies, they will be subject to the ire of the vocal minority on campus that looks askance at free speech and open debate. It will be helpful in such cases to be able to say that wide-ranging debate is now

mandated by state law. If administrators hold their ground and students come to tolerate and even relish honest debate and discussion of the issues that divide us, America will be on its way to a much-needed renaissance of freedom and civility.

Legislatures at their discretion can decide whether to include new funding for the administrative office in question or whether to instruct universities to finance the office out of existing funds. The new office will be more effective if it reports to one of the less-politicized divisions within the university administration, and this is provided for in the model bill.

Legislatures that adopt this proposal would be well-advised to consider adopting a companion campus free-speech bill based on the model published by Arizona's Goldwater Institute (which I co-authored). The Goldwater proposal is the only model campus free-speech legislation that deals with the problem of shout-downs, which it deters through an interlocking system of discipline, education, and oversight. Deterring shout-downs will be particularly important once the number of invitations to speakers out of tune with current campus orthodoxies rises. The Goldwater model also establishes policies on access to speaking events that maximizes the freedom of students and campus visitors to speak and listen.

I have authored model state-level legislation along the lines described here and posted it at the website of the National Association of Scholars (NAS). The proposed Campus Intellectual Diversity Act can be found at this link. George La Noue's research and recommendations, cited above, were first floated in the NAS's journal, *Academic Questions*. La Noue and I are both NAS members and the NAS has strongly endorsed the model Campus Intellectual Diversity Act.

The disappearance of intellectual diversity on America's college campuses is at the root of the campus free-speech crisis, and of America's increasingly frayed political culture. The Campus Intellectual Diversity Act can help to solve these problems, while still respecting the independence of professors in the classroom.

Appendix 3: The National Association of Scholars' Endorsement of "The Campus Intellectual Diversity Act"

Peter Wood, "NAS Endorses the Campus Intellectual Diversity Act," National Association of Scholars, February 12, 2019, https://www.nas.org/articles/the_campus_intellectual_diversity_act.

The National Association of Scholars endorses the model state legislation titled, *The Campus Intellectual Diversity Act*.

This *Act* would advance the goal of improving higher education at public colleges and universities by encouraging well-formed and intelligent debate on important public policy issues. Such debate is needed to ensure that college students acquire a well-rounded understanding of the range of views that shape our state and national discussions on matters of which Americans at large disagree.

The main idea of the *Act* is to establish at public colleges and universities an Office of Public Policy Events that would stage debates on important issues that include *speakers who hold divergent perspectives*. The legislation would ensure the integrity of this step by requiring the office to make the schedule of debates public and to maintain an Internet-accessible video archive of the debates,

The National Association of Scholars' mission is to uphold the kind of "education that fosters intellectual freedom, searches for the truth, and promotes virtuous citizenship." *The Campus Intellectual Diversity Act* would contribute to all three of these goals. It would foster intellectual freedom by presenting students with alternatives that they can weigh for themselves and choose among. It would foster the search for the truth by putting the burden on proponents of every view to put forward their basic arguments and best evidence, and by exposing claims that rest on faulty evidence or mere assertion. And it would promote virtuous citizenship by teaching students how to listen, how to weigh competing claims about the public good, how to ask pertinent questions, and how to deliberate in an effort to discern the best answers.

For most of its history, American higher education embodied the spirit of *The Campus Intellectual Diversity Act*. Plainly this is no longer the case. Although many colleges and universities continue to claim that they are committed to academic and intellectual freedom, civil discourse, and debate on key public policy issues, these claims ring hollow. Shout-downs, disinvitations, and disparate treatment of groups associated with views that are unpopular on campus have caught the public eye. But even more telling are the *non*-invitations and other quiet ways in which proponents of unpopular views are kept out of campus discussions.

The NAS has documented these exclusionary practices in many of our studies, including George La Noue's "Promoting a Campus of Policy Debates" (*Academic Questions*, Winter 2017), Mitchell Langbert's "Homogenous: The Political Affiliations of Elite Liberal Arts College

Faculty” (*Academic Questions*, Summer 2018), and David Randall’s *Making Citizens* (2017). Numerous studies published elsewhere have confirmed the picture that college faculties are overwhelmingly dominated by individuals who see themselves as “progressive” or “left of center.” Some of these faculty members actively seek to prevent students from being exposed to view from elsewhere on the political spectrum, but many faculty members simply treat the exclusion of non-left views as the normal condition of campus life.

The Campus Intellectual Diversity Act is a major step towards overcoming these barriers to the expression of competing ideas on campus. The *Act* is model legislation intended for state legislatures. It can be modified as needed for the circumstances of particular states, but it strikes exactly where the need is greatest by creating a strong incentive for colleges and universities to “teach the controversies” by bringing proponents of opposing views together for civil exchange of views in a public forum.

The National Association of Scholars strongly endorses this concept and welcomes *The Campus Intellectual Diversity Act* as a signal contribution to American civic life.