



Did your professor make you uncomfortable? There's a law for that!

Posted on March 15, 2024 by Lisa Philips

Indiana's Governor Holcomb signed SEA 202 into law on March 13, 2024. The bill, like those in Florida and North Carolina, calls DEI (Diversity, Equity, and Inclusion)-centered teaching, research, scholarship, and hiring practices into question and makes free speech the basis for all DEI-related challenges. The Indiana law goes further than the others in that it empowers students, colleagues, and staff to accuse professors of violating their freedom of expression; it authorizes the state's commission on higher education to survey all the people the professor has been in contact with to make the determination; and sets up mechanisms by which the offending professor(s) can be demoted or terminated.

I bring your attention to excerpts from the bill (a link to the whole appears below) with some all-important historical context and analysis designed to generate discussion. If you read the bill in its entirety, you'll find that, if read neutrally, the first ten sections aren't that bad in that they mention promoting "cultural and intellectual diversity" in myriad venues, all of which Indiana's state institutions already do. Section 4 (4) even reads "Make recommendations to promote recruitment and retention of minority **and underrepresented**

students (emphasis in original).

We all know SEA 202 is not a neutral bill. The clause "... minority **and underrepresented students**" is listed numerous times throughout the document, highlighted each time. Because the bill was authored and sponsored by Indiana's conservative Republicans and because it consistently lists "minority AND unrepresented students," it's clear they believe white, more conservative, gendered-male students are "**underrepresented.**" The bill's (which will become law on July 1) focus is that demographic.

Two sections are especially threatening, those involving tenure along with the "complaint" mechanism by which students and staff will be able to challenge what's being taught or discussed, or even what's "likely" to be taught or discussed, by claiming violations of their right to freedom of expression.

Two sections are especially threatening, those involving tenure along with the "complaint" mechanism by which students and staff will be able to challenge what's being taught or discussed, or even what's "likely" to be taught or discussed, by claiming violations of their right to freedom of expression.

Chapter 2. Tenure, Promotion, Employment, Complaints, and Disciplinary Actions

Sec. 1. (a) This section applies to an institution that grants tenure or promotions to faculty members.

(b) Subject to subsection (c), each board of trustees of an institution shall establish a policy that provides that a faculty member may not be granted tenure or a promotion by the institution if, based on past performance or other determination by the board of trustees, the faculty member is:

(1) unlikely to foster a culture of free inquiry, free expression,

and intellectual diversity within the institution;

(2) unlikely to expose students to scholarly works from a variety of political or ideological frameworks that may exist within and are applicable to the faculty member's academic

discipline; or

(3) likely, while performing teaching duties within the scope of the faculty member's employment, to subject students to political or ideological views and opinions that are unrelated to the faculty member's academic discipline or assigned course of instruction.

(c) A policy established under subsection (b) must provide that the board of trustees of an institution may not consider the following actions by a faculty member when determining whether a faculty member may not be granted tenure or a promotion by the institution:

(1) Expressing dissent or engaging in research or public commentary on subjects.

(2) Criticizing the institution's leadership.

(3) Engaging in any political activity conducted outside the faculty member's teaching or mentoring duties at the institution.

Chapter 5. Reporting Requirements

Sec. 1. The commission for higher education may establish a student survey that attempts to collect information from students of an institution regarding the current perceptions of whether free speech and academic freedom are recognized and fostered by the institution in a manner that welcomes expression of different opinions and ideologies with respect to, but not limited to, classes, faculty members and other instructors, peer interactions, speakers, and campus groups.

Sec. 2. If the commission for higher education establishes a student survey under section 1 of this chapter, each institution may promote and provide to students the survey established under section 1 of this chapter.

Sec. 3. If the commission for higher education establishes a student survey under section 1 of this chapter, the commission for higher education may do the following:

(1) Prepare a biennial report that summarizes, for each institution, the information collected from the student survey responses.

(2) Submit the report described in subdivision (1) to the legislative council in an

electronic format under IC 5-14-6.

(3) Post the report on the commission for higher education's website.

Sec. 4. Not later than September 1, 2024, each institution shall submit the following to the commission for higher education:

(1) Data describing the institution's budget allocations for diversity, equity, and inclusion initiatives.

(2) Information regarding the definitions, guidelines, and parameters the institution used in determining which initiatives were considered by the institution to be diversity, equity, and inclusion initiatives

The state's public institutions are required to submit the number of complaints they've received each year, presumably to provide the governor and legislature with evidence as to which of Indiana's institutions are the most DEI-friendly, i.e. which best silence the underrepresented conservative viewpoint. Ultimately the state's commission on higher education, a governor-appointed entity, has the last word as the body that reviews each institution's boards of trustees' recommendations with regard to the offending faculty. Boards of trustees are also charged with reviewing post-tenure faculty every five years to ensure they're following the law. The machinery now in place will quiet if not silence all of us at all close to anything DEI-related. It's only a matter of time before one of us is scapegoated by a student who's unhappy with their grade and the net cast wider as a result.

I have spent the last few weeks reading the bill, listening closely to Senator Deery, one of the bill's sponsors, and its supporters, to my colleagues' opposition, and to, conservative journalists' take on it. It turns out white conservative men and women don't really like the radical-liberal "dogma" being taught ("spewed") by DEI-oriented faculty across the country and in Indiana. They don't like the message, they don't like the people delivering it, and they'd prefer scholarship be driven by a more generous read of what their predecessors (white conservative men and women) accomplished. The bill couches its main goal in all kinds deflection rhetoric designed to enable to bill's supporters to claim what they're after is indeed "neutral." Given the scholarship of the last fifty years, much of which emphasizes the disproportionate share of privilege and influence white men have wielded (and that's a generous read), there's no way to deliver the message these legislators are after. To tell a more generous story is to dismiss at least fifty years of scholarship or make it up.

The machinery now in place will quiet if not silence all of us at all close to anything DEI-related. It's only a matter of time before one of us is scapegoated by a student who's unhappy with their grade and the net cast wider as a result.

The academy recruited women, people of color, and those who aren't heteronormative to "see" the evidence, i.e. to conduct academic research, from a non-white, non-male perspective. The results have changed how we understand our history, our worlds. It's this "altered" paradigm Indiana's Senator Derry and the bill's supporters want to shift by encouraging conservative white young men and women to do the work for them by complaining about their professors in the name of a conservative crusade. This is reprehensible.

The only way to balance the perspectives professors take in class, on anything DEI-related, is to rely on legitimate scholarship to do so. Let's encourage, as the academy did fifty years ago, scholars to examine the unexamined, to research the conservative white male and female perspectives. Oh, wait, we've done that and it's not flattering, especially when white men in positions of power are the subject.

Still, what about other examples? We might emphasize the history and business practices of the CEO who makes no more than his lowest paid worker. Maybe we could collectively find and tell the stories of all of the conservative Christian ministers who put their church's tithing revenue into foreign aid without skimming off the top or expecting the recipients to convert. We could lead with evidence of conservative white, Christian, women who help pregnant teens with their unplanned pregnancies, provide childcare, and put the unwed moms through college. Or, we could more often share the history one of my students uncovered of white, black, and indigenous people working together in Oklahoma in the 1920s for better pay and working conditions.

The target audience for SEA 202 is the uninterrogated block of conservative, presumably white and male, likely Christian, students. I live with one, my seventeen year old son, who's been listening to me talk about SEA 202. I finally asked him: "do you think there's an overemphasis on Black men and women, on gender, on sexuality at school?" He said, "yes" and went on to explain that the stuff he reads for his classes often depict black men and women as idols, as role models, while white men, especially older men (his grandfather's age) are described as violently "racist," "homophobic," and "sexist." There are very few examples of white men, he said, who aren't vilified. Is my son racist, sexist, or homophobic? No. He's simply tired of "the same old story." We, myself included, are not doing him any favors. The paradigm does need to shift, but NOT to 1950s "great white

man” stories or to Florida’s emphasis on the “skills” people who were enslaved learned on plantations—none of those are accurate, especially told without context. We can and should do what we’ve always done, research the as yet underrepresented people who weren’t “great” nor “villain” but people, perhaps with a new and different emphasis on white men, who worked across race, gender, religious, and heteronormative lines to find common ground. I will be teaching pre-1960s historical scholarship alongside the most recent; I’ll let my students discuss the material and write a narrative that acknowledges both. They will be the judge, determining for themselves how the history should be interpreted.

For more on SEA 202, academic freedom in Indiana, and a conservative take on the bill, see:

<https://iga.in.gov/pdf-documents/123/2024/senate/bills/SB0202/SB0202.06.ENRH.pdf>

<https://www.chronicle.com/article/indiana-university-is-where-academic-freedom-goes-to-die>

<https://www.heraldtimesonline.com/story/opinion/columns/2024/03/13/columnist-writes-sb-202-doesnt-target-woke-ness-in-higher-education/72942252007/>

Author



• [Lisa Philips](#)

Lisa Wunderlich Phillips is the author of *A Renegade Union: Interracial Organizing and Labor Radicalism*. She is working on history of labor relations at Disney and teaches at Indiana State University.