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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
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September 25, 2019

Dr. Vincent E. Price
Office of the President
Duke University
207 Allen Building
Box 90001
Durham, North Carolina 27708-0001

Dear Dr. Price:

The United States Senate Committee on Finance has exclusive jurisdiction within the U.S. Senate over matters of federal taxation, and as its chairman I am committed to making sure the United States' tax laws are administered fairly and effectively. As part of that commitment, it is my job to make sure that entities exempt from tax are fulfilling their tax-exempt purposes. As you are surely aware, Duke University is an educational institution exempt from tax by way of 26 U.S.C. § 501(c)(3) and, according to its Form 990 for year 2016,

The mission of Duke University is to provide a superior liberal education to undergraduate students, attending not only to their intellectual growth but also to their development as adults committed to high ethical standards and full participation as leaders in their communities ... to advance the frontiers of knowledge and contribute boldly to the international community of scholarship; to promote an intellectual environment built on a commitment to free and open inquiry... and to promote a deep appreciation for the range of human difference and potential, a sense of the obligations and rewards and citizenship, and a commitment to learning, freedom and truth.¹

Unfortunately, over the past year I have read a variety of media reports discussing incidents in higher education involving faculty suffering difficulties with or expressing concerns about teaching or researching topics that might challenge or encourage critical thinking about the conventional wisdom or a popular ideology of the day. Recently in the

¹ Duke University 2016 Form 990 Schedule O, available at <https://projects.propublica.org/nonprofits/organizations/560532129/201801359349312415/IRS990ScheduleO>.

Wall Street Journal, former Yale Law School dean and current professor Anthony Kronman criticized U.S. higher education for failing to live up to its purpose of “preserving, within the larger democratic order, islands of culture devoted to the undemocratic values of excellence and truth.”² If this is true, it strikes at the heart of why U.S. universities are generally exempt from tax. In a case involving a college’s tax-exempt status, the U.S. Supreme Court described the reason for tax exemption in this way: “Charitable exemptions are justified on the basis that the exempt entity confers a public benefit -- a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues.”³ The Association of American Universities (AAU) describes the tax-exempt purpose in the context of higher education as “fundamental to fostering the productive and civic capacity of [the Nation’s] citizens.”⁴ Prof. Kronman invokes Tocqueville to describe this purpose as challenging “the instinct to believe what others do in order to avoid the labor and risk of thinking for oneself.”⁵ I agree with both the AAU and Prof. Kronman. Students who can work and think critically for themselves are best equipped to tackle the most difficult challenges we face and participate fully and effectively in our democracy.

A fundamental piece of this democracy-enabling purpose is that college and university professors should be free to teach and research – and students should be free to learn – to the best of their abilities in defiance of an undiscerning “instinct to believe what others do.” The United States’ higher education has long been the envy of the world for its ability to do just that. This letter respectfully requests information regarding the university’s commitment to creating such an educational environment in which its faculty can teach topics and take positions on matters that defy conventional wisdom and challenge orthodoxies in necessary but perhaps uncomfortable ways, what Duke University describes as “a commitment to free and open inquiry.”

It is my understanding that the recently completed academic year was the last of 20 years that Prof. Evan Charney was an associate professor at Duke University’s Sanford School of Public Policy. I understand Prof. Charney to have been a non-tenured professor at Duke with a five-year contract that concluded with the 2018-19 academic year. I also understand that Duke chose in April 2018 to not renew Prof. Charney’s contract. According to Prof. Charney,

The end of the spring semester marks the 20th anniversary of my professorship at Duke, first as an assistant professor and then as an associate professor of the practice at the Sanford School of Public Policy. During this time, I regularly taught the required ethics class for all undergraduate public policy majors. I won multiple teaching awards,

² Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

³ *Bob Jones Univ. v. United States*, 461 U.S. 574, 591 (1983).

⁴ Nonprofit Tax Compliance, Association of American Universities, at <https://www.aau.edu/issues/nonprofit-tax-compliance>.

⁵ Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

consistently received scores on student teaching evaluations above the school average and, in a Duke Chronicle poll of undergraduates, was ranked as one of the three most popular professors at Duke University for several years.

Therefore, I was blindsided last April when informed that my contract would not be renewed, particularly given that for the past five years (I was on a five-year renewable contract) I was never informed of any problem with any aspect of my performance. Nor was I given an evaluation, despite a change to the Duke bylaws in 2017 mandating such reviews (see here).

When word of the non-renewal of my contract got out, a letter written in my defense, signed by 100 former students, was published in the Duke Chronicle, and these same students and others began a letter-writing campaign imploring the Sanford administration to reconsider their decision.

Last April, I filed a complaint with the Faculty Hearing Committee (FHC), a university-wide committee tasked with hearing faculty complaints on matters such as tenure and contract renewal. In their written report, they made clear (as Sanford never did) the actual reason for the loss of my job: Dissatisfaction with my “classroom performance.” Specifically, according to Sanford:

Professor Charney’s tendency to provoke negative reactions, and perhaps harm, among some students in the classroom due to his confrontational teaching style—a style that had a tendency to be polarizing among students, particularly in a required Sanford course in which not all students could choose to have Professor Charney as an instructor.

Prof. Charney continues in this statement, which is attached to this letter in full, to discuss his belief that his contract with Duke was not renewed on the basis of a handful of student complaints in one class that discussed on-campus racism. Prof. Charney concludes his statement with the following:

What happened to me is being repeated at colleges and universities throughout the country. Unfortunately, a growing number of university students equate being made uncomfortable in the classroom with being “harmed.” And in this they are encouraged by a growing number of faculty and administrators who view the mission of the university as more about shielding students from such “harm” (for the sake of “inclusivity”) and less about meaningful education. In the “surveillance university,” students are encouraged to report on the transgressions of faculty, and in

what has been called an impulse of “vindictive protectiveness,” faculty are judged guilty and harshly punished.⁶

The purpose of this letter is not to re-litigate Duke University’s decision not to renew Prof. Charney’s contract nor is it to question the adequacy of procedures afforded to Prof. Charney in the wake of that non-renewal. However, Prof. Charney more generally raises serious concerns about the state of higher education. In his statement listed above, Prof. Charney quotes from a written report of a Faculty Hearing Committee, which he purports to be “a university-wide committee tasked with hearing faculty complaints on matters such as tenure and contract renewal.” That report, which is also attached in full to this letter, substantively concludes as follows:

Professor Charney’s complaint argues that the criticisms of his classroom performance, and thus the decision not to renew his appointment, really had to do with his “radical free speech” approach, in which he forced his students to discuss controversial viewpoints on hotly contested issues of politics and public policy. The panel finds no evidence, however, that anyone at Sanford objected to Professor Charney’s raising of any particular issue, or expression of any particular viewpoint, in his classroom. Indeed, Professor Charney stressed that he intentionally introduces provocative views on all sides of issues and that students would have difficulty determining his personal views.

The issue was not what Professor Charney discussed but how he handled discussion of difficult and emotional issues with and among students. Professor Charney perhaps could have made more effort to learn to manage classroom discussion of difficult topics in a manner that would have left all students feeling fully heard and respected. But, again, that is not a matter for this Committee. Sanford was entitled, wisely or not, to choose a classroom environment for itself in which no student was left feeling mistreated by an instructor. Whether students or faculty, or both, should adapt their sensitivities and behavior, be separated from curricula or even departments and schools, or simply be left to their own devices in such situations, are pedagogical questions outside the jurisdiction of the Faculty Hearing Committee.⁷

⁶ Evan Charney, *The End of Being a Duke Professor and What It Means for the Future of Higher Education*, The James G. Martin Center for Academic Renewal, April 22, 2019, <https://www.jamesgmartin.center/2019/04/the-end-of-being-a-duke-professor-and-what-it-means-for-the-future-of-higher-education/>.

⁷ Duke University Faculty Hearing Committee Appendix 1, *Findings of Fact and Recommendation Involving Claim of Evan Charney*, PhD, January 8, 2019, available at https://drive.google.com/file/d/1qrGaqKye_5hJxEAFYmTrzNYLJeXVlnF7/view.

I have the following questions about this matter:

1. Do you understand the facts discussed in the partially reprinted statement above by Prof. Charney to be accurate? If not, what factual allegations in that statement require correction and what are those corrections?
2. Do you understand the report discussed in Prof. Charney's statement, and partially quoted above and attached to this letter in full, as an authentic copy of the report from Duke University's Faculty Hearing Committee on the matter of Prof. Charney? If not, please provide an authentic copy of that report.
3. Do you understand the facts discussed in that report to be an accurate portrayal of the processes and reasons for Duke University's decision not to renew Prof. Charney's contract? If not, what factual allegations in that report require correction and what are those corrections?
4. Is Prof. Charney correct in his statement that over the last 20 years he regularly taught an ethics class required of all undergraduate public policy majors at Duke University?
5. Is Prof. Charney correct in his statement that over the last 20 years he won multiple teaching awards? If so, what awards did he win and when did he win those awards?
6. Is Prof. Charney correct in his statement that over the last 20 years he consistently received scores on student teaching evaluations above the Duke University average? Is Prof. Charney correct in his statement that in a Duke Chronicle poll of undergraduates, he was ranked as one of the three most popular professors at Duke University for several years? If so, what years did he poll as such?
7. Did Prof. Charney alter his course materials or his teaching methods substantially in the past two academic years compared to prior years when he was reportedly highly rated by students?
8. Is Prof. Charney correct in his statement that Duke University's Faculty Hearing Committee found the reason the university did not renew his contract was his classroom practice of "provok[ing] negative reactions, and perhaps harm, among some students in the classroom due to his confrontational teaching style—a style that had a tendency to be polarizing among students, particularly in a required Sanford course in which not all students could choose to have Professor Charney as an instructor"?

- a. If so, in what ways did Prof. Charney “provoke negative reactions”?
 - b. How are such provocations antithetical to an intellectual environment built on a commitment to free and open inquiry?
 - c. In what specific ways did Prof. Charney’s classroom practice provoke harm to students at Duke University?
9. Does the quote above accurately reflect Duke University’s Faculty Hearing Committee report regarding Prof. Charney in its statement, “The issue was not *what* Professor Charney discussed but *how* he handled discussion of difficult and emotional issues with and among students.”? If so, what specifically did Duke University find disagreeable in the way that Prof. Charney handled discussion of “difficult and emotional issues with and among students?”
10. Does the quote above accurately reflect Duke University’s Faculty Hearing Committee report regarding Prof. Charney in its statement, “Professor Charney perhaps could have made more effort to learn to manage classroom discussion of difficult topics in a manner that would have left all students feeling fully heard and respected.”?
- a. If so, in what ways could Prof. Charney have made more effort to learn to manage classroom discussion of difficult topics in a manner that would have left students feeling fully heard and respected? Did any university official work with Prof. Charney to address such a perceived inadequacy prior to deciding not to renew Prof. Charney’s contract?
 - b. How is such an effort not tantamount to giving preferred weight to certain student perspectives over others in a classroom setting, and how does it coexist with Duke University’s purported purpose of “promot[ing] an intellectual environment built on a commitment to free and open inquiry... and ... promot[ing] a deep appreciation for the range of human difference and potential”?
 - c. Can a university fulfill its commitment to “learning, freedom and truth” without potentially causing its students to have their perspectives challenged?
 - d. Can a university fulfill its commitment to “provid[ing] a superior liberal education to undergraduate students” without potentially causing its students to have their perspectives challenged?
 - e. Can a university fulfill its commitment to developing its students into adults without potentially causing its students to have their perspectives challenged?

11. Prof. Charney alleges “a growing number of university students equate being made uncomfortable in the classroom with being ‘harmed.’ And in this they are encouraged by a growing number of faculty and administrators who view the mission of the university as more about shielding students from such ‘harm’ (for the sake of ‘inclusivity’) and less about meaningful education.” Do you agree with this statement?
- If so, what efforts is Duke University making to ensure that “shielding students from ‘harm’” does not impede “meaningful education”?
 - If not, how do you disagree with this statement by Prof. Charney?
12. In his statement Prof. Charney quotes from a student who supported his teaching methods as follows:

As a woman of color, I write to bring attention to an aspect of Charney's teaching that will be as missed as much as it is needed in today's political climate... The climate at Duke reflects the polarization of the country at large. Conversations are halted before they can even begin. Instead of listening, instead of understanding or trying to understand, people on both sides are combative and dismissive... Charney taught us how to have those conversations, how to navigate race relations, how to empathize.

Did the sentiment expressed in this paragraph above factor into Duke University's decision not to renew Prof. Charney's contract? If so, please elaborate on how it factored into that decision-making process.

13. Does the non-renewal of Prof. Charney's contract with Duke University because of undergraduate students not “feeling fully heard and respected” give reason for other non-tenured professors at Duke University to err on the side of making students feel heard and respected, as opposed to challenged, and if so, how does that affect Duke University's purpose of boldly advancing the frontiers of knowledge?

I also ask for responses to the following questions about what Duke University describes as its Bias Response Advisory Committee. According to the university's website, “Duke Student Affairs has established a Bias Response Advisory Committee to advise the Vice President for Student Affairs when allegations of bias-related incidents may impact the Duke community.”⁸ One of the purported missions of the Bias Response Advisory Committee is to “make recommendations for educational interventions to help

⁸ Bias Response Advisory Committee, Duke University Student Affairs, <https://studentaffairs.duke.edu/bias-response>.

the larger University community deepen awareness and fluency on the diversity of human experience.”⁹ Furthermore, according to Duke’s website, a “bias incident” is defined as

*an act or behavior motivated by the offender’s bias against the identity of an individual or community. Bias occurs whether the act is intentional or unintentional and may be directed toward an individual or group. A bias incident may take the form of a verbal interaction, cyber-interaction, physical interaction, or interaction with property. Bias often contributes to or creates an unsafe/unwelcoming environment.*¹⁰

In discussing university discipline of those who in engage in “bias-related incidents,” that website states,

*The University takes seriously its responsibility to appropriately balance its core values of protecting individual freedoms (e.g., freedom of speech, artistic expression, freedom of association, academic freedom) and ensuring equal and fair treatment of all. These values may sometimes be in conflict. There are many considerations when determining whether bias-related conduct violates the University’s expectations of members of our community. In so doing, the University is always mindful that academia is a unique place where the exchange of ideas, robust debate and artistic expression are critical to the University’s teaching and research missions. Investigation and adjudication of possible violations of university policy as the result of reported bias-related incidents are handled by the Office of Student Conduct.*¹¹

According to that website, Duke “[s]tudents affirm their commitment to foster this climate by signing a pledge that includes taking constructive action if they witness or know about behavior they perceive to be inconsistent with the [Duke Community Standard], which may include violation of university policies.”¹²

My questions about Duke University’s Bias Response Advisory Committee are as follows:

14. Was the non-renewal of Prof. Charney’s contract with Duke University precipitated by students reporting him to Duke University’s Bias Response Advisory Committee?
 - a. If so, how many of such complaints were there, and what were the nature of those complaints?

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

- b. If not, was the non-renewal of Prof. Charney's contract with Duke University precipitated by students reporting him to any other individual, body, or entity associated with Duke University? If so, how many of such complaints were there, and what were the nature of those complaints?
15. Does the University have a written policy defining "Bias Response Advisory Committee" as well as its policies and procedures for receiving, evaluating, and referring complaints beyond what is described on the Duke University Student Affairs website? If so, please provide a copy of that policy.
16. Duke University's website lists nine individuals as members of the Bias Response Advisory Committee.¹³ What individuals are eligible to serve on the Bias Response Advisory Committee, and how are they selected?
17. What type of conduct rises to the level of a "bias incident"? Does the Bias Response Advisory Committee distinguish between incidents that are (1) so severe, pervasive, and objectively offensive, and that so undermine and detract from a student's educational experience, that the student is effectively denied equal access to the university's resources, and those that are (2) merely the expression of heterodox ideas made or offered in a spirit of free and open inquiry?
18. As stated above, Duke University purports to "take seriously its responsibility to appropriately balance its core values of protecting individual freedoms (e.g., freedom of speech, artistic expression, freedom of association, academic freedom)." What training, if any, does Duke University provide to members of its Bias Response Advisory Committee for the purpose of helping them distinguish between "bias incidents" that are (1) so severe, pervasive, and objectively offensive, and that so undermine and detract from a student's educational experience, that the student is effectively denied equal access to the university's resources, and (2) those that are merely the exercise of individual freedoms, such as the freedom of speech, artistic expression, freedom of association, and academic freedom? Please provide copies of those materials.
19. What training, if any, does Duke University provide to other individuals in its community who might be responsible for handling reports of "bias incidents" for the purpose of helping them distinguish between "bias incidents" that are (1) so severe, pervasive, and objectively offensive, and that so undermine and detract from a student's educational experience, that the student is effectively denied equal access to the university's resources, and (2) those that are merely the exercise of individual freedoms, such as the freedom of speech, artistic expression, freedom of association, and academic freedom? Please provide copies of those materials.

¹³ *Id.*

20. Since the beginning of the 2017-2018 academic year, how many complaints has Duke University's Bias Response Advisory Committee received, and does the Bias Response Advisory Committee keep records of such complaints? If so, please provide copies of those complaints that involve allegations of bias committed by faculty, with personal information redacted.
21. Does the Duke University Bias Response Advisory Committee accept anonymous complaints, and, if so, does the Bias Response Advisory Committee keep records of anonymous complaints?
22. How does Duke University's Bias Response Advisory Committee address "bias incidents" that are not so severe, pervasive, and objectively offensive, and that so undermine and detract from a student's educational experience, that the student is effectively denied equal access to the university's resources, or do not otherwise violate any laws?
 - a. Since the beginning of the 2018-2019 academic year, have there been any such incidents that resulted in discipline of student or faculty?
 - b. If so, how many of such incidents resulted in discipline of student or faculty, and what types of discipline ensued on account of such incidents?
 - c. How many of such incidents involved subject matters taught by faculty? How many of such incidents involved faculty behavior?
23. I assume Duke University has orientation programming for its new students. During such programming, how does Duke University communicate to those new students the importance of academic freedom, if at all? Please provide copies of any materials used for such programming.

This is to ask that you respond to the Committee no later than October 25, 2019. Furthermore, please answer the questions on a question-by-question basis, indicating which questions you are answering. Of course, while the Finance Committee has a responsibility to ensure the tax laws are administered fairly and effectively, I do not wish to interfere with the legitimate exercise of Duke's academic freedom and I would certainly invite a discussion of that as well, if you are so inclined. Should you have any questions, please contact John Schoenecker or Quinton Brady at (202) 224-4515. Thank you in advance for your assistance in this matter.



Charles E. Grassley
Chairman
Senate Finance Committee



The End of Being a Duke Professor and What It Means for the Future of Higher Education

APR 22, 2019



Evan Charney 299 Comments

THE END OF THE SPRING SEMESTER MARKS THE 20TH ANNIVERSARY OF MY PROFESSORSHIP AT DUKE, first as an assistant professor and then as an associate professor of the practice at the Sanford School of Public Policy. During this time, I regularly taught the required ethics class for all undergraduate public policy majors. I won multiple teaching awards, consistently received scores on student teaching

evaluations above the school average and, in a *Duke Chronicle* poll of undergraduates, was ranked as one of the three most popular professors at Duke University for several years.

Therefore, I was blindsided last April when informed that my contract would not be renewed, particularly given that for the past five years (I was on a five-year renewable contract) I was never informed of any problem with any aspect of my performance. Nor was I given an evaluation, despite a change to the Duke bylaws in 2017 mandating such reviews (see here).

When word of the non-renewal of my contract got out, a letter written in my defense, signed by 100 former students, was published in the *Duke Chronicle*, and these same students and others began a letter-writing campaign imploring the Sanford administration to reconsider their decision.

Last April, I filed a complaint with the Faculty Hearing Committee (FHC), a university-wide committee tasked with hearing faculty complaints on matters such as tenure and contract renewal. In their written report, they made clear (as Sanford never did) the actual reason for the loss of my job: Dissatisfaction with my “classroom performance.” Specifically, according to Sanford:

Professor Charney's tendency to provoke negative reactions, and perhaps harm, among some students in the classroom due to his confrontational teaching style—a style that had a tendency to be polarizing among students, particularly in a required Sanford course in which not all students could choose to have Professor Charney as an instructor.

That's an astonishing claim that stands in stark contrast to the assessment of the FHC itself:

The members of the panel were disappointed with Sanford's handling of Professor Charney's reappointment. Professor Charney was, for many years at Duke, a highly-rated, University-decorated, and—for many, many students—beloved and formative professor. He was an asset to Duke.

Last April, I was informed that my contract would expire in one year—and was then assigned to teach two classes of the *very same required Sanford course*, one in the fall and one this spring, in which I supposedly had a tendency to harm students. If Sanford actually believed their own rhetoric, they would be guilty of knowingly endangering their students.

Why did I lose my job on the basis of my purportedly having a tendency to harm students, when there was no evidence of such a tendency, either in my student evaluations or any other feedback I received from students and faculty?

The answer, I believe, is twofold: First, the complaint of a handful of students concerning the events of a single class in which we discussed racism at Duke; second, an administration willing to give this complaint absolute credence and greater weight than a record of 20 years as an outstanding teacher, and to distort that record to ensure a negative vote of the faculty.

It is extremely troubling that the complaint of a handful of students proved dispositive, inasmuch as most students who were in the very same class had very different reactions to my teaching. Here is one representative example:

As a woman of color, I write to bring attention to an aspect of Charney's teaching that will be as missed as much as it is needed in today's political climate...The climate at Duke reflects the polarization of the country at large. Conversations are halted before they can even begin. Instead of listening, instead of understanding or trying to understand, people on both sides are combative and dismissive...Charney taught us how to have those conversations, how to navigate race relations, how to empathize.

To be sure, I am a provocative professor. I challenge students' deeply held beliefs and expose them to material some would find shocking and offensive. Far from having a tendency to provoke negative reactions, harm, and polarization, it is precisely my method of teaching that has made me such a popular teacher and has led student after student to assert that my class changed her life.

An ideologically driven and enforced conception of harm is fundamentally at odds with the principle of faculty free expression.

What happened to me is being repeated at colleges and universities throughout the country. Unfortunately, a growing number of university students equate being made uncomfortable in the classroom with being "harmed." And in this they are encouraged by a growing number of faculty and administrators who view the mission of the university as more about shielding students from such "harm" (for the sake of "inclusivity") and less about meaningful education. In the "surveillance university," students are encouraged to report on

the transgressions of faculty, and in what has been called an impulse of "vindictive protectiveness," faculty are judged guilty and harshly punished.

Such protectiveness is motivated less by a reasonable concern for students' mental health and more by political ideology. The complaint of a group of conservative students who felt singled out or disrespected or uncomfortable in class would be taken far less seriously. I have been on the receiving end of faculty emails making light of just such complaints.

Nor would a complaint by religious students that God and Christianity were mocked by their professor have much purchase. And I have never heard that Sanford's "safe space" is a welcome refuge for the (generally reviled) minority of "open" Trump supporters on campus, nor have I heard of "trigger warnings" for depictions of disrespect to the American flag or harm to the unborn.

Such an ideologically driven and enforced conception of harm is fundamentally at odds with the principle of faculty free expression (teaching *style* is as much a matter of free expression as course content or ideological viewpoint). It is, to borrow a phrase from First Amendment jurisprudence, a content-based restriction on speech.

To be clear: I am not calling for an expansion of the ethos of vindictive protectiveness to be all-inclusive. I am, rather, calling for its abandonment as it is deeply corrosive to the educational mission of a university.

Finally, Duke, like colleges and universities throughout the country, is relying ever more on non-tenure track faculty. Given that tenure was instituted to protect faculty speech in all of its manifestations, this is a cause for concern. The political climate on campuses may be such that even tenured faculty have something to fear, but the threat is particularly great for the growing ranks of non-tenured faculty. It creates a strong incentive to

avoid any style of teaching that might conceivably cause discomfort to students who fall within the ambit of an ideologically driven protectiveness.

Teaching shaped by fear, especially when dealing with controversial topics (assuming such topics are not avoided altogether) will never be effective teaching.

As the FHC noted in this regard, “even if every member of this panel viewed it as deeply wrongheaded, a school or department at Duke could decide that it simply did not want a POP [Professor of the Practice] in any of its classrooms who would make any student feel uncomfortable at any time.”

Here's to being deeply wrongheaded.

Evan Charney is an associate professor of the practice of public policy and political science at the Sanford School of Public Policy.

[Duke University](#) [inclusivity](#) [North Carolina](#) [racism](#) [Tenure](#)



AUTHOR
Evan Charney

The End of Being a Duke Professor and What It Means for the Future of Higher Education

APR 22, 2019 › Academics, Politicization

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Appendix 1

**FINDINGS OF FACT AND RECOMMENDATION INVOLVING CLAIM
OF EVAN CHARNEY, PHD**

January 8, 2019

January 8, 2019

FINDINGS OF FACT AND RECOMMENDATION INVOLVING CLAIM OF EVAN CHARNEY, PHD

Evan Charney, PhD, Associate Professor of the Practice of Public Policy and Political Science in the Sanford School of Public Policy, received notice on April 11, 2018 informing him that Duke University was not renewing his faculty position. Professor Charney filed a complaint with the Faculty Hearing Committee on June 13, 2018, naming various members of the Sanford School as respondents.

A hearing was held on this matter on December 7, 2018. The faculty hearing panel was composed of Samuel Buell (Law School and chair of the panel), Stefano Cutarolo (Pratt School of Engineering), Julie Edell (Fuqua School of Business), Douglas Marchuk (Department of Molecular Genetics and Microbiology, School of Medicine), and David McClay (Department of Biology). Tracey Rupp, who was identified as working in epidemiology at the University of North Carolina, attended as an adviser on behalf of the complainant. All of the respondents were in attendance: Judith Kelley (Dean, and former Senior Associate Dean), Kelly Brownell (former Dean), Billy Pizer (Associate Dean), Kathryn Whetten (Professor of Public Policy), and Robert Korstad (Professor of Public Policy).

I. The Problem of Document Access

Prior to the hearing on this complaint, the panel was compelled to address a matter of access to documentary evidence that was vexing and unsatisfactory. Appendix N to the Faculty Rules states that a panel of the Faculty Hearing Committee “upon request, shall have access to such university records, accounts, and other sources of information as may be pertinent to the complaint or respondent’s reply.”

At the request of the complainant, the panel obtained access to four categories of material that were not available to the complainant: (1) the committee report that was submitted to the Sanford faculty in connection with the decision whether to renew Professor Charney’s appointment; (2) a letter to the Provost summarizing the Sanford faculty’s deliberations and decision; (3) additional documents regarding Professor Charney’s teaching performance that were prepared and distributed to the Sanford faculty, after a first faculty meeting on Professor Charney’s reappointment and before a second meeting and vote; and (4) letters submitted to the Provost by students and alumni objecting to Sanford’s decision not to reappoint Professor Charney.

The complainant urged the panel to make all of these documents available to him as well, arguing that he could not effectively contest his non-reappointment before the Faculty Hearing Committee without access to the information in the documents. The respondents objected to such access on the grounds that providing such confidential appointments materials to a disappointed candidate would damage Sanford’s and Duke’s appointments and promotion processes, in which confidentiality is designed, among other purposes, to ensure that faculty members and outside reviewers and references are uninhibited in candidly sharing information and views about candidates for appointment and promotion.

The panel determined that materials under item (4) were not relevant to its consideration of Professor Charney's complaint because these materials were not before the Sanford faculty in connection with its decision whether to renew Professor Charney. As to materials in items (1), (2), and (3), the panel determined not to provide Professor Charney with access.

It is far from desirable to conduct a proceeding such as this one without allowing all parties to marshal arguments on the basis of all relevant evidence. However, the panel found itself inhibited from disclosing the materials by the compelling argument that the simple filing of a complaint with the Faculty Hearing Committee not be a means of automatically piercing the confidentiality of Duke's appointments and promotion processes. We concluded that, at a minimum, a single panel of the Faculty Hearing Committee is not the appropriate body to decide on behalf of the University how to balance important policy matters regarding fairness and confidentiality that affect University-wide practices. We thus were compelled to maintain confidentiality of the documents, while urging Professor Charney to rely on the panel to consider all of the contested materials carefully and fairly.

The Faculty Hearing Committee requests that the Provost and the Executive Committee of the Academic Council take up and resolve the policy matter of access to such documents in the Faculty Hearing Committee process, and that the Academic Council amend Appendix N accordingly. We were very surprised to be told that this issue had not squarely come up in past hearings. We expect that it will recur and we view it as an important matter of University policy that must be addressed.

II. Findings of Fact

Professor Charney's complaint to this Committee alleges, under Appendix N to the Faculty Rules, that in connection with the decision not to reappoint him he suffered "violation of academic freedom" (jurisdictional item 6) and "violation of academic due process with respect to an adverse employment ... action" (jurisdictional item 7).

Professor Charney joined the Sanford faculty in 1999 as an Instructor. In 2000, he was promoted to Assistant Professor (tenure track). In 2008, Professor Charney and Sanford agreed, because of a chronic neuromuscular disorder affecting Professor Charney, that his publication record would be insufficient for tenure and that he would be moved to an appointment as an Associate Professor of the Practice (POP). Professor Charney's POP appointment was renewed for two years and then, in 2014, renewed under a five-year contract until June 30, 2019. The decision not to renew Professor Charney beyond that date is the subject of this complaint.

At the time of Professor Charney's 2018 review for reappointment, Sanford's standards for POP appointments required (1) "satisfactory performance in administration, program development, research and writing, and fundraising, to the extent these activities are included in the job definition"; (2) "evidence of continued engagement and achievement in [the POP's] professions outside [the POP's] University responsibilities"; and (3) "satisfactory performance as a teacher of undergraduate or professional students."

On October 26, 2017, Sanford provided Professor Charney with a letter asking him to collect and supply materials relating to twelve listed items relevant to these reappointment criteria. Professor Charney did so. Sanford next formed a committee to consider the reappointment decision and report to the faculty on the matter. This committee, which was comprised of Professors Whetten and Korstad, prepared a 13-page report that was provided to the Sanford faculty and dated "March 2018." The report, which described and, in important respects, criticized Professor Charney's teaching, research, and service activities, conveyed no committee vote or clear, formal recommendation to the faculty on whether to reappoint Professor Charney.

The Sanford faculty met to discuss Professor Charney's reappointment on April 9, 2018. We were told at the hearing that, while Sanford has no rule requiring a second faculty meeting on a POP reappointment, the faculty decided to consider the matter further and hold a second meeting when it became clear at the first meeting that Professor Charney's reappointment was in doubt. On April 10, 2018, additional documents were made available to Sanford faculty on an internal server regarding Professor Charney's teaching, apparently in response to questions raised by faculty members at the first meeting. These documents (some of which Professor Charney acquired by unknown means after the filing of his complaint) highlighted the extent to which Professor Charney had received some low students evaluation scores ("2s" and "3s") and reported accounts of individual students and other members of the University community about negative interactions with Professor Charney inside and outside of the classroom. (The materials made available to the faculty before the first meeting included a comprehensive record of all of Professor Charney's teaching evaluations.)

The Sanford faculty met again on April 11, 2018, and voted not to renew Professor Charney's appointment. In a letter provided to Professor Charney on April 19, 2018, Senior Associate Dean Kelley explained in some detail the faculty's views of Professor Charney's unsatisfactory performance in the areas of teaching, research, and service.

III. Conclusions

The members of the panel were disappointed with Sanford's handling of Professor Charney's reappointment. Professor Charney was, for many years at Duke, a highly-rated, University-decorated, and--for many, many students--beloved and formative teacher. He was an asset to Duke. His research and writing did not appear, on the surface, to be of the quantity or prestige of a tenured faculty member, but he continued to publish throughout his service as a POP. Professor Charney's service and other engagement at Sanford became minimal over time, mostly due to deteriorating relations between the faculty and Professor Charney that appear to have caused all concerned to lose interest in pursuing or following through on collaboration.

Prior to 2018, Sanford made no sustained effort to document or cure its concerns about Professor Charney. Indeed, it remains unclear to the panel how substantial Sanford's criticisms of Professor Charney's performance were prior to 2018. In 2018, faculty and administrators began to consider non-renewal of their relationship with Professor Charney. This was largely due to unhappiness with Professor Charney's tendency to provoke negative reactions, and perhaps harm, among some students in the classroom due to his confrontational teaching style--a style that had a

tendency to be polarizing among students, particularly in a required Sanford course in which not all students could choose to have Professor Charney as an instructor.

Sanford then ended its relationship with Professor Charney through a process that included, oddly, a two-person committee and a report with no formal vote or recommendation, followed by a faculty-wide deliberation and vote. Sanford chose to evaluate Professor Charney's research and service quite negatively, even though it would be fair to say that these had not been major concerns for Sanford prior to 2018 and that dissatisfaction with Professor Charney's classroom performance was plainly the primary motive for his nonrenewal. (Professor Charney complains that, prior to 2018, he did not receive formal annual reviews. But Sanford's rules did not provide for such reviews until the rules were amended just before Professor Charney was due for the 2018 renewal decision, which of course constituted a formal review.)

While no model for personnel management and faculty governance, nothing Sanford did in this case implicates the Faculty Hearing Committee's jurisdiction.

As to academic due process, Professor Charney's five-year POP appointment came with no guarantee of renewal. Sanford followed its own written procedures in considering Professor Charney for reappointment and its faculty was entitled to vote against reappointing him. This Committee has neither jurisdiction nor competence to question Sanford's substantive assessments of the merits of Professor Charney's teaching, research, and service. Indeed, Sanford would be entitled to be quite wrong on those matters, as long as it genuinely considered them, which we find that it did in this case. (Professor Charney complains that Sanford did not obtain outside reviews of his research but Sanford's procedures do not provide for such reviews in the case of POP reappointments.) For example, even if every member of this panel viewed it as deeply wrongheaded, a school or department at Duke could decide that it simply did not want a POP in any of its classrooms who would make any student feel uncomfortable at any time.

As to academic freedom, Professor Charney's complaint argues that the criticisms of his classroom performance, and thus the decision not to renew his appointment, really had to do with his "radical free speech" approach, in which he forced his students to discuss controversial viewpoints on hotly contested issues of politics and public policy. The panel finds no evidence, however, that anyone at Sanford objected to Professor Charney's raising of any particular issue, or expression of any particular viewpoint, in his classroom. Indeed, Professor Charney stressed that he intentionally introduces provocative views on all sides of issues and that students would have difficulty determining his personal views.

The issue was not *what* Professor Charney discussed but *how* he handled discussion of difficult and emotional issues with and among students. Professor Charney perhaps could have made more effort to learn to manage classroom discussion of difficult topics in a manner that would have left all students feeling fully heard and respected. But, again, that is not a matter for this Committee. Sanford was entitled, wisely or not, to choose a classroom environment for itself in which no student was left feeling mistreated by an instructor. Whether students or faculty, or both, should adapt their sensitivities and behavior, be separated from curricula or even departments and schools, or simply be left to their own devices in such situations, are pedagogical questions outside the jurisdiction of the Faculty Hearing Committee.

IV. Recommendation

Unanimously, the panel recommends no further action on the decision of the Sanford School not to renew Professor Charney's appointment.

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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

September 25, 2019

Lawrence S. Bacow
President, Harvard University
Massachusetts Hall
Cambridge, Massachusetts 02138

Dear President Bacow:

The United States Senate Committee on Finance has exclusive jurisdiction within the U.S. Senate over matters of federal taxation, and as its chairman I am committed to making sure the United States' tax laws are administered fairly and effectively. As part of that commitment, it is my job to make sure that entities exempt from tax are fulfilling their tax-exempt purposes. As you are surely aware, Harvard University is an educational institution exempt from tax by way of 26 U.S.C. § 501(c)(3).

Unfortunately, over the past year I have read a variety of media reports discussing incidents in higher education involving faculty suffering difficulties with or expressing concerns about teaching or researching topics that might challenge or encourage critical thinking about the conventional wisdom or a popular ideology of the day. Recently in the *Wall Street Journal*, former Yale Law School dean and current professor Anthony Kronman criticized U.S. higher education for failing to live up to its purpose of "preserving, within the larger democratic order, islands of culture devoted to the undemocratic values of excellence and truth."¹ If this is true, it strikes at the heart of why U.S. universities are generally exempt from tax. In a case involving a college's tax-exempt status, the U.S. Supreme Court described the reason for tax exemption in this way: "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit -- a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions already supported by tax revenues."² The Association of American Universities (AAU) describes the tax-exempt purpose in the context of higher education as "fundamental to

¹ Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

² *Bob Jones Univ. v. United States*, 461 U.S. 574, 591 (1983).

fostering the productive and civic capacity of [the Nation's] citizens.”³ Prof. Kronman invokes Tocqueville to describe this purpose as challenging “the instinct to believe what others do in order to avoid the labor and risk of thinking for oneself.”⁴ I agree with both the AAU and Prof. Kronman. Students who can work and think critically for themselves are best equipped to tackle the most difficult challenges we face and participate fully and effectively in our democracy.

A fundamental piece of this democracy-enabling purpose is that college and university professors should be free to teach and research – and students should be free to learn – to the best of their abilities in defiance of an undiscerning “instinct to believe what others do.” The United States’ higher education has long been the envy of the world for its ability to do just that. This letter respectfully requests information regarding the university’s commitment to creating such an educational environment in which its faculty can teach topics and take positions on matters that defy conventional wisdom and challenge orthodoxies in necessary but perhaps uncomfortable ways.

As you are aware, Harvard College recently declined to continue its relationship with Ronald S. Sullivan, Jr., and his wife, Stephanie Robinson, as faculty deans of Harvard’s undergraduate house, Winthrop House. According to the *New York Times*, Mr. Sullivan and Ms. Robinson had held such positions since 2009, but Mr. Sullivan attracted controversy this past January when he joined the criminal defense team for disgraced movie producer Harvey Weinstein.⁵ Apparently at that point, many Harvard students protested Mr. Sullivan’s continued position as faculty dean of Winthrop House, and vandals even spray-painted graffiti around the Harvard campus expressing a similar view. According to another report in the *New York Times*, such graffiti included statements of, “Down w Sullivan!” “Our rage is self-defense,” and “Whose side are you on?”⁶

In a letter dated May 11, 2019, Harvard College Dean Rakesh Khurana explained his decision to not renew Mr. Sullivan’s and Ms. Robinson’s deanships in the following way:

My decision not to renew the Faculty Deans was informed by a number of considerations. Over the last few weeks, students and staff have continued to communicate concerns about the climate in Winthrop House to the College. The concerns expressed have been serious and numerous. The actions that have been taken to improve the climate have been ineffective, and the noticeable lack of faculty dean presence during

³ Nonprofit Tax Compliance, Association of American Universities, at <https://www.aau.edu/issues/nonprofit-tax-compliance>.

⁴ Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

⁵ Kate Taylor, *Harvard’s First Black Faculty Deans Let Go Amid Uproar Over Harvey Weinstein Defense*, NEW YORK TIMES, May 11, 2019, <https://www.nytimes.com/2019/05/11/us/ronald-sullivan-harvard.html>.

⁶ Jan Ransom and Michael Gold, *‘Whose Side Are You On?’: Harvard Dean Representing Weinstein Is Hit With Graffiti and Protests*, NEW YORK TIMES, March 4, 2019, <https://www.nytimes.com/2019/03/04/nyregion/harvard-dean-harvey-weinstein.html?module=inline>.

*critical moments has further deteriorated the climate in the House. I have concluded that the situation in the House is untenable.*⁷

This past June, Mr. Sullivan responded to his dismissal as faculty dean of Winthrop House with an op-ed in the *New York Times* in which he wrote,

In May, Harvard College announced that it would not renew the appointment of me and my wife, Stephanie Robinson, as faculty deans of Winthrop House, one of Harvard's undergraduate residential houses, because I am one of the lawyers who represented the Hollywood producer Harvey Weinstein in advance of his coming sexual assault trial. The administration's decision followed reports by some students that they felt "unsafe" in an institution led by a lawyer who would take on Mr. Weinstein as a client.

...

I would hope that any student who felt unsafe as a result of my representation of Mr. Weinstein might, after a reasoned discussion of the relevant facts, question whether his or her feelings were warranted. But Harvard was not interested in having that discussion. Nor was Harvard interested in facilitating conversations about the appropriate role of its faculty in addressing sexual violence and the tension between protecting the rights of the criminally accused and treating survivors of sexual violence with respect.

Instead, the administration capitulated to protesters. Given that universities are supposed to be places of considered and civil discourse, where people are forced to wrestle with difficult, controversial and unfamiliar ideas, this is disappointing.

Harvard has been silent in other disappointing ways. Not long ago, I was taking my 9-year-old son to school when we saw that "Down with Sullivan" had been spray-painted on the wall abutting our home. I had to explain to my son that representing unpopular clients serves an important constitutional role in our democracy and that I had done nothing wrong. As you might imagine, it was hard to see my son read that piece of graffiti.

*The administration said and did nothing in response to the vandalism. Yet again, reasoned discourse lost out to raw feelings.*⁸

⁷ Letter from Dean Rakesh Khurana to Winthrop House, May 11, 2019, available at <https://int.nyt.com/data/documenthelper/877-harvard-letter-winthrop-house/62dd9758ae971129b5a9/optimized/full.pdf#page=1>.

⁸ Ronald S. Sullivan, Jr., *Why Harvard Was Wrong to Make Me Step Down*, NEW YORK TIMES, June 24, 2019, <https://www.nytimes.com/2019/06/24/opinion/harvard-ronald-sullivan.html>.

To be clear, it is generally Harvard College's business as to what faculty members it employs and how it employs them, and to the extent Mr. Sullivan's and Ms. Robinson's dismissals from Winthrop House were the result of individual or human resources-related reasons, they are none of my business nor the business of the Finance Committee. Moreover, this letter is certainly not about Harvey Weinstein. The allegations made against him are heinous and disgusting, and I am grateful he will face justice. But this episode raises significant concerns that have implications for the state of tax-exempt higher education in the United States and how it is preparing the next generation of our Nation's leaders. To that end, I have the following questions:

1. The American Bar Association's Model Rule of Professional Conduct 1.2(b) states, "A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities."⁹ Do you believe it is important for students of Harvard College, whether they intend to engage in the legal profession in some future capacity or not, to appreciate the essence of this rule and the implications it has for the concept of due process afforded to individuals accused of committing crimes in the United States? How heavily did Harvard College weigh consideration of this value when it decided to discontinue its relationship with Ronald S. Sullivan, Jr., and his wife, Stephanie Robinson, as faculty deans of Winthrop House?
2. In recent years the word "unsafe" seems to have taken on a broader definition. I have always understood this word to have an obvious meaning, generally referring to objects or activities that might give rise to medically unhealthy or physically dangerous situations. But more and more, the word "unsafe" seems to also refer to ideas that some people don't like. This troubles me, and Prof. Sullivan alleges in his piece in the *New York Times* that some students complained that his position as faculty dean of Winthrop House made them feel "unsafe" because of his representation of a certain criminal defendant.
 - a. Is Prof. Sullivan correct that some students complained that his faculty deanship of Winthrop House made them feel "unsafe" because of his legal representation of a certain criminal defendant?
 - b. If so, does Harvard College take the position that the presence of a lawyer who represents an unpopular criminal defendant can reasonably make someone else unsafe, and if so, how?

⁹ American Bar Association, Model Rules of Professional Conduct, *available at* https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_2_scope_of_representation_allocation_of_authority_between_client_lawyer/

- c. If some students complained that Prof. Sullivan's faculty deanship of Winthrop House made them feel "unsafe," was that concern given any credence in the decision to discontinue Prof. Sullivan's position as faculty dean of Winthrop House?
 - d. Does Harvard College take the position that a faculty member who challenges, or encourages critical thinking about the conventional wisdom or a popular ideology of the day can reasonably make a student unsafe?
3. Are the allegations of vandalism throughout the Harvard campus directed at Prof. Sullivan, as reported in the *New York Times* and discussed above, generally correct?
- a. Did any personnel at Harvard College investigate such vandalism?
 - b. If so, what were the results of that investigation?
 - c. If these acts of vandalism did occur, is it your understanding that Harvard College students committed them?
 - d. To the extent not described above, and without revealing personally identifiable information, were there in fact resulting consequences for such acts of vandalism described, and what were those consequences?
4. I assume Harvard College has orientation programming for its new students. During such programming, how does Harvard College communicate to those new students the importance of academic freedom, if at all? Please provide copies of any materials used for such programming.

This is to ask that you respond to the Committee no later than October 25, 2019. Furthermore, please answer the questions on a question-by-question basis, indicating which questions you are answering. Of course, while the Finance Committee has a responsibility to ensure the tax laws are administered fairly and effectively, I do not wish to interfere with the legitimate exercise of Harvard's academic freedom and I would certainly invite a discussion of that as well, if you are so inclined. Should you have any questions, please contact John Schoenecker or Quinton Brady at (202) 224-4515. Thank you in advance for your assistance in this matter.



Charles E. Grassley
Chairman
Senate Finance Committee

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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

September 25, 2019

Dr. Cristle Collins Judd
President
Sarah Lawrence College
1 Mead Way
Bronxville, New York 10708

Dear Dr. Judd:

The United States Senate Committee on Finance has exclusive jurisdiction within the U.S. Senate over matters of federal taxation, and as its chairman I am committed to making sure the United States' tax laws are administered to fairly and effectively. As part of that commitment, it is my job to make sure that entities exempt from tax are fulfilling their tax-exempt purposes. As you are surely aware, Sarah Lawrence College is an educational institution exempt from tax by way of 26 U.S.C. § 501(c)(3) and, according to its Form 990 for year 2016, the college's "unique educational practices, including unparalleled time with faculty, aim at preparing the whole student to solve problems in new ways, to cross disciplinary boundaries, and to think and act independently as they become protagonists on the world stage."¹

Unfortunately, over the past year I have read a variety of media reports discussing incidents in higher education involving faculty suffering difficulties with or expressing concerns about teaching or researching topics that might challenge or encourage critical thinking about the conventional wisdom or a popular ideology of the day. Recently in the *Wall Street Journal*, former Yale Law School dean and current professor Anthony Kronman criticized U.S. higher education for failing to live up to its purpose of "preserving, within the larger democratic order, islands of culture devoted to the undemocratic values of excellence and truth."² If this is true, it strikes at the heart of why U.S. universities are generally exempt from tax. In a case involving a college's tax-exempt status, the U.S. Supreme Court described the reason for tax exemption in this way: "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit -- a benefit which the society or the community may not itself choose or be

¹ Sarah Lawrence College 2016 Form 990, *available at* <https://pdf.guidestar.org/PDF/Images/2017/237/223/2017-237223216-0efb8714-9.pdf>.

² Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

able to provide, or which supplements and advances the work of public institutions already supported by tax revenues.”³ The Association of American Universities (AAU) describes the tax-exempt purpose in the context of higher education as “fundamental to fostering the productive and civic capacity of [the Nation’s] citizens.”⁴ Prof. Kronman invokes Tocqueville to describe this purpose as challenging “the instinct to believe what others do in order to avoid the labor and risk of thinking for oneself.”⁵ I agree with both the AAU and Prof. Kronman. Students who can work and think critically for themselves are best equipped to tackle the most difficult challenges we face and participate fully and effectively in our democracy.

A fundamental piece of this democracy-enabling purpose is that college and university professors should be free to teach and research – and students should be free to learn – to the best of their abilities in defiance of an undiscerning “instinct to believe what others do.” The United States’ higher education has long been the envy of the world for its ability to do just that. This letter respectfully requests information regarding the university’s commitment to creating such an educational environment in which its faculty can teach topics and take positions on matters that defy conventional wisdom and challenge orthodoxies in necessary but perhaps uncomfortable ways, what Sarah Lawrence College refers to as “preparing the whole student ... to think and act independently as they become protagonists on the world stage.” This letter respectfully requests information regarding the college’s fulfillment of that asserted non-profit purpose.

As you are aware, last fall the *New York Times* published a commentary authored by Sarah Lawrence College professor Samuel J. Abrams in which he discussed the rising influence of non-teaching college administrators on campus and what he perceived to be an ideological imbalance toward political liberalism among such administrators across the United States.⁶ In that commentary, Prof. Abrams listed various liberal-to-conservative ratios among non-teaching administrators at colleges in different parts of the country, such as 25-to-1 in New England and 16-to-1 on the West Coast and in the Southeast.⁷ He concluded his commentary with,

This warped ideological distribution among college administrators should give our students and their families pause. To students who are in their first semester at school, I urge you not to accept unthinkingly what your campus administrators are telling you. Their ideological imbalance, coupled with their agenda-setting power, threatens the free and open exchange of ideas, which is

³ *Bob Jones Univ. v. United States*, 461 U.S. 574, 591 (1983).

⁴ Nonprofit Tax Compliance, Association of American Universities, at <https://www.aau.edu/issues/nonprofit-tax-compliance>.

⁵ Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

⁶ 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>.

⁷ *Id.*

*precisely what we need to protect in higher education in these politically polarized times.*⁸

The purpose of this letter is not to discuss the statistics, or even the conclusions discussed by Prof. Abrams in his commentary. Rather, this letter specifically asks questions about events that are reported to have transpired after the publication of that commentary. According to one account, as partially reprinted below (and attached to this letter in its entirety),

After penning an op-ed for The New York Times decrying the ideological homogeneity of his campus administration, a conservative-leaning professor at Sarah Lawrence College discovered intimidating messages—including demands that he quit his job—on the door of his office. The perpetrators had torn down the door's decorations, which had included pictures of the professor's family.

In the two weeks since the incident, Samuel Abrams, a tenured professor of politics at Sarah Lawrence, has repeatedly asked the college's president, Cristle Collins Judd, to condemn the perpetrators' actions and reiterate her support for free speech. But after sending a tepid campus-wide email that mentioned the importance of free expression, but mostly stressed her "commitment to diversity and inclusive excellence," Judd spoke with Abrams over the phone; according to him, she accused him of "attacking" members of the community.

"She said I had created a hostile work environment," Abrams said in an interview with Reason. "If [the op-ed] constitutes hate speech, then this is not a world that I want to be a part of."

What's more, when the two met in person, Judd implied that Abrams was on the market for a new job, he said.

"I am not on the job market," he said. "I am tenured, I live in New York. Why would I go on the job market?"

Abrams interpreted Judd's remarks as a suggestion that he might be better off leaving the school. Judd did not respond to a request for comment.

That article goes on to describe other events on campus as follows:

Many Sarah Lawrence students and alumni did not appreciate Abrams calling attention to this issue.

"There was an emergency student senate meeting, to my knowledge," said Abrams. It was his understanding that the meeting produced a declaration calling for him to be stripped of tenure and dismissed from the college. Judd sent

⁸ *Id.*

a campus-wide email about the meeting, which she described as “not only thoughtful, but thought-provoking.”

“The Senate asked me to publicly affirm that Black Lives Matter, that LGBT+ Lives matter, and that Women’s Justice matters,” wrote Judd in the email. “I emphatically did.”

The student senate did not immediately respond to a request for comment.

*Abrams’ office door was vandalized on October 16, hours after the op-ed’s publication. The perpetrators posted a sign on the door that read, “Our right to exist is not ‘ideological,’ a*****e,” and was signed “transsexual [EPITHET].” Another flyer demanded that he apologize to residence life staff and the director of campus diversity, students of color, queer students, trans students, and other marginalized persons. Multiple messages instructed Abrams to “quit,” and one told him to “go teach somewhere else, maybe Charlottesville.”*

Abrams believes the perpetrators tried to break into his office; some of his books had fallen off their shelves as if the sign-posters had slammed the door and the walls.

“I’m really shaken,” he said.

Abrams’ dealings with Judd have further unnerved him. During their conversation, she implied that he should have cleared his public writings with her before submitting them, something he described as unacceptable.

Several of Abrams’ colleagues met with Judd to discuss the vandalism and express their view that such acts could not be tolerated. Judd agreed, but did not pledge to take any further actions. These professors thought she seemed scared that the students might hold more protests, creating a public relations disaster, according to Abrams.⁹

I have the following questions about this matter:

1. Do you understand the facts discussed in the partially reprinted article immediately above – that in the wake of the publication of Prof. Abrams’ commentary in the *New York Times*, “perpetrators [tore] down [his office] door’s decorations, which had included pictures of the professor’s family” – to be accurate? Did any personnel at Sarah Lawrence College investigate this event? If so, what were the results of that investigation? If these acts of vandalism did occur, is it your understanding that Sarah Lawrence University students committed them?

⁹ Robby Soave, *Sarah Lawrence Professor’s Office Door Vandalized After He Criticized Leftist Bias*, REASON, November 2, 2018, <https://reason.com/2018/11/02/sarah-lawrence-professor-samuel-abrams>.

- a. Prior to the publication of the article listed above, what actions did you or any other Sarah Lawrence College personnel take to address this purported act of vandalism?
 - b. Is the partially reprinted article above correct in its reporting that “[s]everal of Abrams’ colleagues met with [you] to discuss the vandalism and express their view that such acts could not be tolerated. [You] agreed, but did not pledge to take any further actions. These professors thought [you] seemed scared that the students might hold more protests, creating a public relations disaster.....”? Did this meeting take place? If so:
 - i. At this meeting, did you discuss the purported vandalism of Prof. Abrams’ door with Sarah Lawrence College personnel?
 - ii. Did you agree with this meeting’s attendees that such purported vandalism should not be tolerated? Is it correct that, at this meeting, you did not pledge to take further action against the perpetrators of this purported vandalism?
 - iii. Is the observation stated in this article correct that you did not wish to take further action out of concern for instigating further protests?
 - iv. Have you or any other Sarah Lawrence College personnel discussed or analyzed the implications of tolerating such vandalism? If so, what were the results of such discussion or analysis?
2. Is the partially reprinted article above correct in its reporting that during this phone call with Prof. Abrams you told him his commentary in the *New York Times* “created a hostile work environment”?
- a. If so, did you intend to communicate to Prof. Abrams that his commentary in the *New York Times* constituted a “hostile work environment” in the legal sense for establishing a form of prohibited discrimination against certain protected classes of individuals? If so, what authority did you rely on in coming to that determination, and what portions of Prof. Abrams’ commentary created a “hostile work environment”?
 - b. If not, what did you otherwise mean by this use of the phrase “hostile work environment”? Do you regard the vandalism that occurred to Prof. Abrams’ office door, if it occurred, as the creation of a hostile work environment for Prof. Abrams?
3. Is the partially reprinted article above correct in its reporting that -- in the wake of the publication of Prof. Abrams’ commentary in the *New York Times* -- you spoke with Prof. Abrams in person about that commentary and asked him if he is in the market for a new job? Was Prof. Abrams correct by

inferring from this meeting that you suggested to him that he might be better off leaving the school? If so, what was your basis for that implication? At all relevant times, was Prof. Abrams a tenured professor at Sarah Lawrence College?

4. Is the partially reprinted article above correct in its reporting that – in the wake of the publication of Prof. Abrams’ commentary in the *New York Times* – there was an “emergency student senate meeting” that “produced a declaration calling for [Prof. Abrams] to be stripped of tenure and dismissed from the college.”
 - a. Did you or any other administrator at Sarah Lawrence College discuss or seriously entertain the suggestion that Prof. Abrams be stripped of tenure? Did you or any other administrator at Sarah Lawrence College discuss or seriously entertain the suggestion that Prof. Abrams be dismissed from the college?
 - b. Please describe in detail whatever discussions or meetings you may have had with any personnel at Sarah Lawrence College about the prospects of stripping Prof. Abrams of tenure and/or dismissing him from the college. In your response, please also provide a copy of the email discussed in this paragraph.
5. Is the partially reprinted article above correct in its reporting that – in the wake of the publication of Prof. Abrams’ commentary in the *New York Times* – at some point you implied to Prof. Abrams that “he should have cleared his public writings with [you] before submitting them” to the *New York Times*?
 - a. As of October 16, 2018, when the *New York Times* published Prof. Abrams’ commentary, what was Sarah Lawrence College’s written policy regarding tenured professors publishing opinion-based commentaries, if any?
 - b. If Sarah Lawrence College had no such written policy as of October 16, 2018, what was Sarah Lawrence College’s unwritten policy regarding tenured professors publishing opinion-based commentaries, if any, and what was the process by which such unwritten policy was communicated to tenured professors at Sarah Lawrence College?
 - c. Since October 16, 2018, did Sarah Lawrence College adopt a policy, either written or unwritten, regarding tenured professors publishing opinion-based commentaries? In your response, please provide a copy of such policy discussed in this paragraph.
 - d. Prior to the publication of Prof. Abrams’ commentary in the *New York Times*, had you ever required academics working under to you seek your

prior approval for commentaries they might submit for publication in widely read publications. If so, please describe the circumstances of such required pre-approval.

6. According to Sarah Lawrence College's website, in the week following the publication of the partially reprinted article above, you issued a letter on November 6, 2018 to the Sarah Lawrence College community stating, "academic freedom is a fundamental principle at Sarah Lawrence College" and "Professor Abrams has every right, and the full support of the College, to pursue and publish this work." You then stated in that letter, "The opinion piece [by Prof. Abrams] made claims that many on our campus understandably found not only controversial, but insulting, and even personally intimidating...."
 - a. What exact language from Prof. Abrams' *New York Times* commentary is understandably intimidating?
 - b. Do you believe Prof. Abrams' *New York Times* commentary understandably made individuals in the Sarah Lawrence College community feel unsafe? If so, what exact language from Prof. Abrams' *New York Times* might make individuals in the Sarah Lawrence College community feel unsafe?
 - c. Do you believe Prof. Abrams' *New York Times* commentary might have exposed individuals in the Sarah Lawrence College community to harm? If so, what exact language from Prof. Abrams' *New York Times* commentary might have exposed individuals in the Sarah Lawrence College community to harm?
7. In your letter of November 6, 2018, you then stated, "[N]o one has the right to remove or destroy personal property and replace it with messages of intimidation, as occurred on Professor Abrams' door the evening following the opinion piece's publication," and indicated such actions "are subject to consequences." To the extent not described above, and without revealing personally identifiable information, were there in fact resulting consequences for the acts of vandalism described in this letter, and what were those consequences?
8. According to Sarah Lawrence College's website, you issued a letter on March 12, 2019, that appears to be a response to various student demands, and in that response you stated, "I must also reference the inappropriateness of demands related to the work and tenure of our faculty members, for which my statement to the campus on November 6 stands as my response."

- a. Is this quoted language intended to serve the purpose of rejecting student demands that Prof. Abrams be stripped of tenure by Sarah Lawrence College?
 - b. At any other time since the publication of Prof. Abrams' commentary in the *New York Times* on October 16, 2018, did you explicitly reject demands that Prof. Abrams be stripped of tenure by Sarah Lawrence College? If so, please provide a copy of that communication.
9. I assume Sarah Lawrence College has orientation programming for its new students. During such programming, how does Sarah Lawrence College communicate to those new students the importance of academic freedom, if at all? Please provide copies of any materials used for such programming.

This is to ask that you respond to the Committee no later than October 25, 2019. Furthermore, please answer the questions on a question-by-question basis, indicating which questions you are answering. Of course, while the Finance Committee has a responsibility to ensure the tax laws are administered fairly and effectively, I do not wish to interfere with the legitimate exercise of Sarah Lawrence College's academic freedom and I would certainly invite a discussion of that as well, if you are so inclined. Should you have any questions, please contact John Schoenecker or Quinton Brady at (202) 224-4515. Thank you in advance for your assistance in this matter.



Charles E. Grassley
Chairman
Senate Finance Committee

Sarah Lawrence Professor's Office Door Vandalized After He Criticized Leftist Bias

Samuel Abrams says the college's president accused him of "attacking" the community and suggested he might be looking for a new job.

ROBBY SOAVE | 11.2.2018 4:25 PM

After penning [an op-ed](#) for *The New York Times* decrying the ideological homogeneity of his campus administration, a conservative-leaning professor at Sarah Lawrence College discovered intimidating messages—including demands that he quit his job—on the door of his office. The perpetrators had torn down the door's decorations, which had included pictures of the professor's family.

In the two weeks since the incident, Samuel Abrams, a tenured professor of politics at Sarah Lawrence, has repeatedly asked the college's president, Cristle Collins Judd, to condemn the perpetrators' actions and reiterate her support for free speech. But after sending a tepid campus-wide email that mentioned the importance of free expression, but mostly stressed her "commitment to diversity and inclusive excellence," Judd spoke with Abrams over the phone; according to him, she accused him of "attacking" members of the community.

"She said I had created a hostile work environment," Abrams said in an interview with *Reason*. "If [the op-ed] constitutes hate speech, then this is not a world that I want to be a part of."

What's more, when the two met in person, Judd implied that Abrams was on the market for a new job, he said.

"I am not on the job market," he said. "I am tenured, I live in New York. Why would I go on the job market?"

Abrams interpreted Judd's remarks as a suggestion that he might be better off leaving the school. Judd did not respond to a request for comment.

Abram's op-ed criticized the "politically lopsided" events hosted by the college's Office of Student Affairs, including seminars on microaggressions, understanding white privilege, and "staying woke." It also included original research: a nationally representative survey of 900 administrators. According to this data, liberal administrators outnumber conservatives 12 to 1. This would mean the ranks of the administration are even more uniformly liberal than the faculty.

"While considerable focus has been placed in recent decades on the impact of the ideological bent of college professors, when it comes to collegiate life—living in dorms, participating in extracurricular organizations—the ever growing ranks of administrators have the biggest influence on students and campus life across the country," wrote Abrams.

Many Sarah Lawrence students and alumni did not appreciate Abrams calling attention to this issue.

"There was an emergency student senate meeting, to my knowledge," said Abrams. It was his understanding that the meeting produced a declaration calling for him to be stripped of tenure and dismissed from the college. Judd sent a campus-wide email about the meeting, which she described as "not only thoughtful, but thought-provoking."

"The Senate asked me to publicly affirm that Black Lives Matter, that LBGT+ Lives matter, and that Women's Justice matters," wrote Judd in the email. "I emphatically did."

The student senate did not immediately respond to a request for comment.

Abrams' office door was vandalized on October 16, hours after the op-ed's publication. The perpetrators posted a sign on the door that read, "Our right to exist is not 'ideological,' asshole," and was signed "transsexual fag." Another flyer demanded that he apologize to residence life staff and the director of campus diversity, students of color, queer students, trans students, and other marginalized persons. Multiple messages instructed Abrams to "quit," and one told him to "go teach somewhere else, maybe Charlottesville."



Alison Nieman / Wikimedia Commons





The Phoenix
@SLCPhoenix

An unknown person left these signs on Samuel Abram's door today, probably in response to his [@nytimes](#) op-ed. Story to follow.

29 6:13 PM - Oct 16, 2018

[36 people are talking about this](#)

Abrams believes the perpetrators tried to break into his office; some of his books had fallen off their shelves as if the sign-posters had slammed the door and the walls.

"I'm really shaken," he said.

Abrams' dealings with Judd have further unnerved him. During their conversation, she implied that he should have cleared his public writings with her before submitting them, something he described as unacceptable.

Several of Abrams' colleagues met with Judd to discuss the vandalism and express their view that such acts could not be tolerated. Judd agreed, but did not pledge to take any further actions. These professors thought she seemed scared that the students might hold more protests, creating a public relations disaster, according to Abrams.

This incident is an example of a concerning phenomenon: college administrators going soft on free speech in an effort to appease a handful of extremely aggressive students. Administrators should take greater care to avoid explicit ideological bias, and they *must* defend the free speech rights of professors who speak out against it. A college that attempts to muzzle, discourage, or rid itself of speech that offends the far left is failing its mission.

[COLLEGE PC](#)

ROBBY SOAVE is an associate editor at *Reason*.



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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
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September 25, 2019

The Rev. Peter M. Donohue, O.S.A.
President
Villanova University
800 E. Lancaster Avenue
Villanova, Pennsylvania 19085

Dear Rev. Donohue:

The United States Senate Committee on Finance has exclusive jurisdiction within the U.S. Senate over matters of federal taxation, and as its chairman I am committed to making sure the United States' tax laws are administered to fairly and effectively. As part of that commitment, it is my job to make sure that entities exempt from tax are fulfilling their tax-exempt purposes. As you are surely aware, Villanova University is an educational institution exempt from tax by way of 26 U.S.C. § 501(c)(3) and, according to its Form 990 for year 2016, "Villanova University is a Catholic Augustinian community of higher education, committed to excellence and distinction in the discovery, dissemination and application of knowledge[.]"¹

Unfortunately, over the past year I have read a variety of media reports discussing incidents in higher education involving faculty suffering difficulties with or expressing concerns about teaching or researching topics that might challenge or encourage critical thinking about the conventional wisdom or a popular ideology of the day. Recently in the *Wall Street Journal*, former Yale Law School dean and current professor Anthony Kronman criticized U.S. higher education for failing to live up to its purpose of "preserving, within the larger democratic order, islands of culture devoted to the undemocratic values of excellence and truth."² If this is true, it strikes at the heart of why U.S. universities are generally exempt from tax. In a case involving a college's tax-exempt status, the U.S. Supreme Court described the reason for tax exemption in this way: "Charitable exemptions are justified on the basis that the exempt entity confers a public benefit -- a benefit which the society or the community may not itself choose or be able to provide, or which supplements and advances the work of public institutions

¹ Villanova University 2016 Form 990, available at <https://pdf.guidestar.org/PDF/Images/2017/231/352/2017-231352688-0f013c21-9.pdf>.

² Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

already supported by tax revenues.”³ The Association of American Universities (AAU) describes the tax-exempt purpose in the context of higher education as “fundamental to fostering the productive and civic capacity of [the Nation’s] citizens.”⁴ Prof. Kronman invokes Tocqueville to describe this purpose as challenging “the instinct to believe what others do in order to avoid the labor and risk of thinking for oneself.”⁵ I agree with both the AAU and Prof. Kronman. Students who can work and think critically for themselves are best equipped to tackle the most difficult challenges we face and participate fully and effectively in our democracy.

A fundamental piece of this democracy-enabling purpose is that college and university professors should be free to teach and research – and students should be free to learn – to the best of their abilities in defiance of an undiscerning “instinct to believe what others do.” The United States’ higher education has long been the envy of the world for its ability to do just that. This letter respectfully requests information regarding the university’s commitment to creating such an educational environment in which its faculty can teach topics and take positions on matters that defy conventional wisdom and challenge orthodoxies in necessary but perhaps uncomfortable ways, what Villanova University describes as a commitment to “excellence and distinction in the discovery, dissemination and application of knowledge.” This letter respectfully requests information regarding the university’s fulfillment of that asserted non-profit purpose.

As you are aware, the *Wall Street Journal* published this past spring a commentary authored by Villanova professors Colleen A. Sheehan and James Matthew Wilson in which they discussed how the university would soon be including “diversity and inclusion” questions on its course and teaching evaluations that students fill out at the end of each semester. According to Profs. Sheehan and Wilson, these evaluations now include “heavily politicized questions such as whether the instructor has demonstrated ‘cultural awareness’ or created an ‘environment free of bias based on individual differences or social identities.’”⁶

Profs. Sheehan and Wilson describe this in further detail:

In short, students are being asked to rate professors according to their perceived agreement with progressive political opinion on bias and identity. Students are also invited to “comment on the instructor’s sensitivity to the diversity of the students in the class.” Professors are rated on their “sensitivity” to a student’s “biological sex, disability, gender identity, national origin, political viewpoint, race/ethnicity, religious beliefs, sexual orientation, socio-economic

³ *Bob Jones Univ. v. United States*, 461 U.S. 574, 591 (1983).

⁴ Nonprofit Tax Compliance, Association of American Universities, at <https://www.aau.edu/issues/nonprofit-tax-compliance>.

⁵ Anthony Kronman, *The Downside of Diversity*, WALL STREET JOURNAL, August 3, 2019, <https://www.wsj.com/articles/the-downside-of-diversity-11564758009>.

⁶ Colleen A Sheehan & James Matthew Wilson, *A Mole Hunt for Diversity ‘Bias’ at Villanova*, WALL STREET JOURNAL, March 30, 2019, <https://www.wsj.com/articles/a-mole-hunt-for-diversity-bias-at-villanova-11553898400>.

status, etc.” The “etc.” in particular seems like an ominous catchall, as if the sole principle of sound teaching has become “that no student shall be offended.”

However well-intentioned, the new assessment of faculty “sensitivity” and “bias” will harm Villanova’s mission to provide a liberal education. Professors will now have a powerful incentive to avoid discussion of anything that might be deemed offensive or insensitive to the various social identities and political viewpoints listed (or not listed, by grace of that “etc.”).

A biology professor may avoid teaching about sexual dimorphism for fear of being labeled “insensitive” to “gender identity.” Professors of political philosophy, history or literature may avoid introducing the texts of John C. Calhoun, Abraham Lincoln, Mark Twain, Harriet Beecher Stowe, Frederick Douglass or Flannery O’Connor, for fear their sometimes racially charged language may be interpreted as “insensitivity.” Catholic teaching prizes philosophical reasoning, but one cannot reason with others if the mere posing of an argument could be deemed an act of “bias.”

And what about sensitivity to social identities, given Villanova’s Catholic character? Those who teach courses about Catholic doctrine on marriage and the family may now live in fear that their own university will treat such views, and those who teach about them, as insensitive or worse. In fact, the “sensitivity” questions appear almost perfectly designed to stifle Catholic moral teaching in the classroom.

The larger implications are even more disturbing. The new evaluations will allow a professor’s professional performance to be recast as a human resources or even a legal problem. Think about it: You can’t fire a professor for being conservative, but you certainly can fire him for creating a “hostile work environment.” At a minimum, all charges of insensitivity, injustice and bigotry will become part of the faculty’s permanent record. How long will it be before professors cease to challenge their students for fear of losing their careers and livelihoods?⁷

A full copy of this commentary is attached to this letter. On April 1, you and Provost Patrick G. Maggitti responded to this commentary with a statement that reads in part (and is attached in full to this letter),

The opinion piece portrays this survey as part of a political litmus test, as an aggressive attempt to target faculty with particular views and as an effort opposed to Villanova’s historic Catholic identity and mission. This is untrue. While for some this polarization may be tempting, it fails to offer the kind of perspective that is, and has always been, characteristic of a Villanova education, and the Villanova community as a whole.

⁷ *Id.*

Catholic Intellectual tradition is best accomplished through and by a diverse community of scholars and students with a wide variety of viewpoints. Student evaluations are important: Surveying students about their experiences in the classroom is not only a reasonable response, it is the only way to know how well we are meeting the challenge of creating an authentically diverse community of scholars.

...

Also missing in the op-ed is the thoughtful, planned process that led to the creation and addition of three questions to the regularly administered course evaluations. Through a process that began with student input, then moved through the administration for formation and then to the faculty for evaluation and shaping, three questions were added to the survey. After pilot testing and more evaluation, the questions were added to the standard survey form. Even after the addition of these to the evaluation form, we continue to solicit faculty and student feedback on these questions, and also examine the patterns evident in students' responses to them. Indeed, we have been quite pleased to note that students at Villanova overwhelmingly rated their faculty at the very top of the scale.⁸

I have the following questions about this matter:

1. Does Villanova University include “diversity and inclusion” questions on its course and teaching evaluations as described by Profs. Sheehan and Wilson, and, if so, does the university intend to continue asking such questions on its course and teaching evaluations for the foreseeable future? What is the standard wording of questions? In your response, please provide a representative example of such questions.
2. In your statement above, you begin to describe the process for including diversity and inclusion questions in course and teaching evaluations as one that began with student input and then “moved through the administration for formation and then to the faculty for evaluation and shaping...”
 - a. Please describe the “student input” that began the process for including these questions on course and teaching evaluations?
 - b. Please describe what it means that these questions “moved through the administration for formation.” What administrators formed these questions, and what are these administrators’ qualifications?

⁸ Rev. Peter M. Donohue & Patrick G. Maggitti, A Message from the President and Provost (April 1, 2019), <https://www1.villanova.edu/villanova/president/speeches/ManifestoWSJ.html>.

- c. What was the process for “faculty ... evaluation and shaping” of these questions and how long was that process? During that process, did any Villanova University faculty member raise the possibility that inclusion of such questions on its course and teaching evaluations might have a stifling or chilling effect on what might be described as the “the discovery, dissemination and application of knowledge,” or something similar? If so, how were such concerns addressed?
3. What would be the repercussions for a professor at Villanova University who, in any given semester, might have discussed in the relevant classroom setting any of the topics mentioned in Profs. Sheehan’s and Wilson’s commentary, including (a) “sexual dimorphism,” (b) the texts of John C. Calhoun, Abraham Lincoln, Mark Twain, Harriet Beecher Stowe, Frederick Douglass or Flannery O’Connor, or (c) the traditional Catholic doctrine on marriage, in a way that earned him or her a statistically significant number of teaching evaluations describing him or her as “insensitive” to “biological sex, disability, gender identity, national origin, political viewpoint, race/ethnicity, religious beliefs, sexual orientation, socio-economic status, etc.” ?
 - a. Could those evaluations give rise to that professor having to meet with a superior to discuss his or her “sensitivity” in a meeting he or she would not have reasonably thought was optional to attend?
 - b. Could it become a part of his or her “permanent record,” as alleged by Profs. Sheehan and Wilson?
 - c. Could it negatively affect his or her compensation?
 - d. Could it negatively affect his or her chances for advancement at Villanova University, including chances to gain tenure?
 - e. Could it negatively affect his or her chances for maintaining tenure at Villanova University?
 - f. Does Villanova University take the position that a professor’s teaching on any of these topics in good faith, in a relevant classroom setting, might reasonably rise to a level of discrimination being so severe, pervasive, and objectively offensive, and that so undermine and detract from a student’s educational experience, that a student is effectively denied equal access to the university’s resources?

I also ask for responses to the following questions about Villanova University’s “Bias Response Team.” According to the university’s website, when a student

experiences an “incident of bias,” he or she may report that incident to the “Bias Response Team,” and then “[a] member of the Bias Response Team will respond to you shortly (usually in 48 hours or less) regarding the information” in that report.⁹

4. Does Villanova University have a written policy defining “Bias Response Team” as well as its policies and procedures for receiving, evaluating, and referring complaints? If so, please provide a copy of those policies.
5. What individuals or groups are eligible to serve on the Bias Response Team, and how are they selected? How many members does it have, and what, if any, are those members’ other positions at Villanova University, whether it be faculty, staff, student, or some other affiliation with the university?
6. What is an “incident of bias”? According to Villanova University’s website, “No one should be mistreated because of their race, age, color, sex, sexual orientation, religion, ethnic or national origin, disability or veteran status....”¹⁰ Are “incident[s] of bias” limited to activities that are so severe, pervasive, and objectively offensive, and that so undermine and detract from a student’s educational experience, that a student is effectively denied equal access to the university’s resources? Or can an “incident of bias” at Villanova University involve lesser activity?
7. What training, if any, does Villanova University provide to members of its Bias Response Team for the purpose of helping them distinguish between “incidents of bias” that are (1) so severe, pervasive, and objectively offensive, and that so undermine and detract from a student’s educational experience, that a student is effectively denied equal access to the university’s resources compared with those that are (2) merely the expression of heterodox ideas made or offered in good faith? Please provide copies of those materials.
8. What training, if any, does Villanova University provide to other individuals in its community who might be responsible for handling reports of “incidents of bias” for the purpose of helping them distinguish between “incidents of bias” that are (1) so severe, pervasive, and objectively offensive, and that so undermine and detract from a student’s educational experience, that a student is effectively denied equal access to the university’s resources compared with those that are (2) merely the expression of heterodox ideas made in good faith? Please provide copies of those materials.

⁹ Report Bias, Office of the Provost, https://www1.villanova.edu/villanova/provost/diversity/report_bias.html.

¹⁰ *Id.*

9. Since the beginning of the 2017-2018 academic year, how many complaints has Villanova University's Bias Response Team received, and does the Bias Response Team keep records of such complaints? If so, please provide copies of those complaints that involve allegations of bias committed by faculty, with personal information redacted.
10. Does the Villanova University Bias Response Team accept anonymous complaints, and, if so, does the Bias Response Team keep records of anonymous complaints?
11. How does Villanova University's Bias Response Team address "incidents of bias" that are not so severe, pervasive, and objectively offensive, and that so undermine and detract from a student's educational experience, that a student is effectively denied equal access to the university's resources?
 - a. Since the beginning of the 2017-2018 academic year, have there been any such incidents that resulted in discipline of students or faculty?
 - b. If so, how many of such incidents resulted in discipline of students or faculty, and what types of discipline ensued on account of such incidents?
 - c. How many of such incidents involved subject matters taught by faculty?
 - d. How many of such incidents involved faculty behavior outside of a classroom setting?
12. If a professor at Villanova University had sought to teach or discuss any of the topics mentioned in Profs. Sheehan's and Wilson's commentary, including (a) "sexual dimorphism," (b) the texts of John C. Calhoun, Abraham Lincoln, Mark Twain, Harriet Beecher Stowe, Frederick Douglass or Flannery O'Connor, or (c) the traditional Catholic doctrine on marriage, in a relevant classroom setting at the university, and such teaching or discussion had prompted a report to the Bias Response Team, would the Bias Response Team have reviewed or further reported such teaching or discussion to any other office at the university?
 - a. If so, please elaborate on the processes involved in that further review or reporting. In such elaboration, please discuss any meetings that might have been held with the professor, informal or otherwise, that he or she might have been asked to attend and which he or she would not have reasonably thought was optional to attend.

- b. In such meetings, which individuals at Villanova University might the faculty member have met with? Would these processes, or any part thereof, described in your answer to this question become a part of the professor's "permanent record"?
13. I assume Villanova University has orientation programming for its new students. During such programming, how does Villanova University communicate to those new students the importance of academic freedom, if at all? Please provide copies of any materials used for such programming.

This is to ask that you respond to the Committee no later than October 25, 2019. Furthermore, please answer the questions on a question-by-question basis, indicating which questions you are answering. Of course, while the Finance Committee has a responsibility to ensure the tax laws are administered fairly and effectively, I do not wish to interfere with the legitimate exercise of Villanova's academic freedom and I would certainly invite a discussion of that as well, if you are so inclined. Should you have any questions, please contact John Schoenecker or Quinton Brady at (202) 224-4515. Thank you in advance for your assistance in this matter.



Charles E. Grassley
Chairman
Senate Finance Committee

THE WALL STREET JOURNAL.

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<https://www.wsj.com/articles/a-mole-hunt-for-diversity-bias-at-villanova-11553898400>

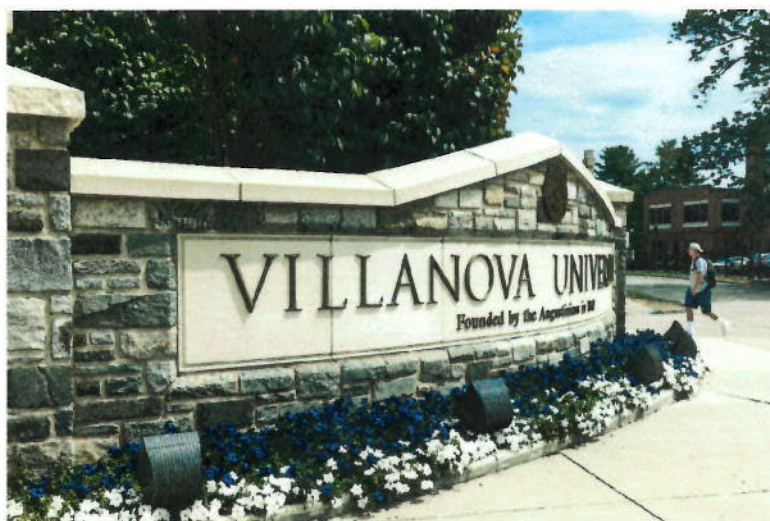
OPINION | COMMENTARY

A Mole Hunt for Diversity ‘Bias’ at Villanova

An atmosphere of fear-imposed silence makes it impossible to achieve a real liberal-arts education.

By Colleen A. Sheehan and James Matthew Wilson

March 29, 2019 6:26 pm ET



Villanova University in Radnor Township, Pa. PHOTO: LIGHTROCKET/GETTY IMAGES

Villanova, Pa.

Like many colleges in the U.S., Villanova University has launched an effort to monitor its faculty for signs of “bias” in the classroom. As Villanova professors, we believe this mole hunt for bias undercuts our ability to provide students with a liberal education.

Last fall we were notified by the Villanova administration that new “diversity and inclusion” questions would be added to the course and teaching evaluations that students fill out each semester. In addition to the standard questions about the intellectual worth of the course and the quality of instruction, students are now being asked heavily politicized questions such as whether the instructor has demonstrated “cultural awareness” or created an “environment free of bias based on individual differences or social identities.”

In short, students are being asked to rate professors according to their perceived agreement with progressive political opinion on bias and identity. Students are also invited to “comment on the instructor’s sensitivity to the diversity of the students in the class.” Professors are rated on their “sensitivity” to a student’s “biological sex, disability, gender identity, national origin,

political viewpoint, race/ethnicity, religious beliefs, sexual orientation, socio-economic status, etc.” The “etc.” in particular seems like an ominous catchall, as if the sole principle of sound teaching has become “that no student shall be offended.”

However well-intentioned, the new assessment of faculty “sensitivity” and “bias” will harm Villanova’s mission to provide a liberal education. Professors will now have a powerful incentive to avoid discussion of anything that might be deemed offensive or insensitive to the various social identities and political viewpoints listed (or not listed, by grace of that “etc.”).

A biology professor may avoid teaching about sexual dimorphism for fear of being labeled “insensitive” to “gender identity.” Professors of political philosophy, history or literature may avoid introducing the texts of John C. Calhoun, Abraham Lincoln, Mark Twain, Harriet Beecher Stowe, Frederick Douglass or Flannery O’Connor, for fear their sometimes racially charged language may be interpreted as “insensitivity.” Catholic teaching prizes philosophical reasoning, but one cannot reason with others if the mere posing of an argument could be deemed an act of “bias.”

And what about sensitivity to social identities, given Villanova’s Catholic character? Those who teach courses about Catholic doctrine on marriage and the family may now live in fear that their own university will treat such views, and those who teach about them, as insensitive or worse. In fact, the “sensitivity” questions appear almost perfectly designed to stifle Catholic moral teaching in the classroom.

The larger implications are even more disturbing. The new evaluations will allow a professor’s professional performance to be recast as a human resources or even a legal problem. Think about it: You can’t fire a professor for being conservative, but you certainly can fire him for creating a “hostile work environment.” At a minimum, all charges of insensitivity, injustice and bigotry will become part of the faculty’s permanent record. How long will it be before professors cease to challenge their students for fear of losing their careers and livelihoods?

For many decades, Villanova’s mission as a Catholic university has been to initiate students into the life of the mind, encouraging them to seek the good, the true and the beautiful even as they are challenged beyond our walls to pursue justice and the common good in the service of “charity in truth.” The adoption of the new dogma of mandatory “diversity and inclusion” places that entire undertaking in danger. As professors dedicated to liberal education, we consider it essential to challenge our students to subject their ideas as well as the predominant opinions of our time to critical examination—however difficult and uncomfortable this may be. We urge our own university as well as other liberal-arts institutions to reject such ideological policing and recommit themselves to the principles of liberal education.

This cannot be achieved in an atmosphere of fear-imposed silence. We professors—and our students—must be free to think and question and debate. Surely respecting diversity must also allow for diversity of thought.

Ms. Sheehan is a professor of political science at Villanova and a co-director of its Matthew J. Ryan Center for the Study of Free Institutions and the Public Good. Mr. Wilson is a professor of religion and literature.

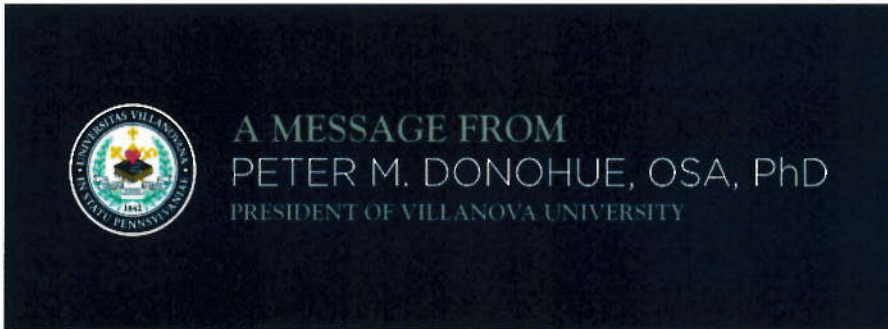
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A Message from the President and Provost



April 1, 2019

There is nothing more central to Villanova's Catholic, Augustinian identity than our community. When Villanova first opened its door to poor immigrant Irish young men needing an education, a tradition of committed welcome was established. We know at Villanova that such a welcome does not end when we say hello. We know that to be fully a part of our community means to be an essential part of the education offered and practiced.

You may have seen an opinion piece recently published in *The Wall Street Journal* criticizing the University for including questions on the long-standing course evaluation survey asking students about their perceptions of the classroom experience, including technology, the setting and the quality of instruction. In a time when it is easier, and, for many, more satisfying to paint policies and persons in extreme terms, guided by the history and mission of Villanova University, we would instead offer a different view of this issue, one rooted in the inseparability of truth, unity, and love.

The opinion piece portrays this survey as part of a political litmus test, as an aggressive attempt to target faculty with particular views and as an effort opposed to Villanova's historic Catholic identity and mission. This is untrue. While for some this polarization may be tempting, it fails to offer the kind of perspective that is, and has always been, characteristic of a Villanova education, and the Villanova community as a whole.

Catholic Intellectual tradition is best accomplished through and by a diverse community of scholars and students with a wide variety of viewpoints. Student evaluations are important: Surveying students about their experiences in the classroom is not only a reasonable response, it is the only way to know how well we are meeting the challenge of creating an authentically diverse community of scholars.

At Villanova we value the voices of each community member. We celebrate hearing and listening to everyone's thoughts and opinions, which embody a wide spectrum of perspectives. Diversity and inclusion are not accessories in higher education today, they are at its core. We know that it is through dialogue between respectful colleagues that differences are resolved and progress toward understanding made. When different voices are included in important conversations, new insights are reached, and discoveries can begin. In today's society, all Villanovans must be prepared to live, thrive, and work effectively across and through the lines of difference.

We are greatly concerned that the op-ed fails to accurately or adequately characterize the nature of a liberal arts education, and especially such an education as it occurs here at Villanova. The authors suggest that a commitment to diversity, equity, and inclusion is antithetical to a liberal arts education, and this is a position we firmly reject.

Our Catholic Augustinian Mission Statement (https://www1.villanova.edu/villanova/president/about_university/mission.html) insists that "to foster academic excellence, we as a University: create a diverse community of scholars, united and dedicated to the highest academic standards." Villanova, as a faith-based institution, takes this claim seriously, recognizing that there is no conflict between academic standards and the values of unity and love, our academic mission and our Catholic heritage.

As a result, we believe that a Villanova education must not simply address questions of fact, but also questions of the linkages between knowledge, perspective, and action. We advance a deeper understanding of the relationship between faith and reason. To foster knowledge without a concern for human connection, or absent a concern for how such knowledge can "ignite change" in our communities is, simply put, inadequate and hollow.

Yet, even more hollow is an education wherein these concerns over truth, unity, and love are ignored in one's own community. As an academic institution committed to excellence, we challenge ourselves every day to prove it.

We do this through our faculty's research efforts, which are reshaping knowledge in a variety of fields, and making critical interventions in contexts and communities across the globe.

We do this through our students, who meet the challenge of excellence by winning postgraduate awards like the Fulbright, finding meaningful employment or postgraduate study, and, in all ways, truly use their Villanova education to ignite change.

And, yes, we do this through embracing thoughtful pedagogy that recognizes that knowledge creation is part of the dynamic exchange among and between perspectives.

Our work is not to eliminate perspectives, as suggested by the op-ed, but to be carefully attentive to ours and others' perspectives. It is only through such communal, caring engagement that our students and teachers can exemplify the teachings and wisdom of St. Augustine.

Also missing in the op-ed is the thoughtful, planned process that led to the creation and addition of three questions to the regularly administered course evaluations. Through a process that began with student input, then moved through the administration for formation and then to the faculty for evaluation and shaping, three questions were added to the survey. After pilot testing and more evaluation, the questions were added to the standard survey form. Even after the addition of these to the evaluation form, we continue to solicit faculty and student feedback on these questions, and also examine the patterns evident in students' responses to them. Indeed, we have been quite pleased to note that students at Villanova overwhelmingly rated their faculty at the very top of the scale.

Although the op-ed makes it appear as though we are using this tool to evaluate faculty for employment decisions and identify faculty members' beliefs, the purpose is actually to provide guidance for internal self-improvement. The survey questions themselves were generated from the community and provide evidence that our classrooms are spaces where faculty and students are embodying Villanova's ideals every day.

This is not easy work; but it is the work that stands as the foundation of a civil society. We are far from being the perfect model in this endeavor. There are ways in which we must continue to reflect upon our failings and then strive to rectify them. But our commitment to diversity, equity, and inclusion is not among them. On the contrary, Villanova University stands as a great educational institution because of our commitment to difference and the authentic community we create.

We come to Villanova and learn the words *Veritas, Unitas, Caritas*. We live Villanova when we place Truth, Unity, and Love at the core of who we are.

Sincerely,

Reverend Peter M. Donohue, OSA

President

Patrick G. Maggiti, PhD

Provost

About Villanova

Villanova University was founded in 1842 by the Order of St. Augustine. To this day, Villanova's Augustinian Catholic intellectual tradition is the cornerstone of an academic community in which students learn to think critically, act compassionately and succeed while serving others. There are more than 10,000 undergraduate, graduate and law students in the University's six colleges.

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