



January 20, 2025

President Donald Trump  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Sent via U.S. Mail

Dear President Trump,

Heterodox Academy (HxA) is a nonpartisan, nonprofit membership organization of more than 7,500 faculty, staff, and students who defend the ideals of open inquiry, viewpoint diversity, and constructive disagreement in higher education. Our members represent the full political spectrum, more than 1,800 institutions world-wide, and nearly every academic discipline. We now have Heterodox Academy campus chapters at 74 institutions of higher education. Diverse in many ways, our membership is united behind the goal of focusing our universities on their fundamental goal of seeking truth. You can learn more about HxA at [www.heterodoxacademy.org](http://www.heterodoxacademy.org).

Our recently established policy department advises policymakers and leaders at institutions of higher education on ways to reform our universities so that they focus on their core knowledge-seeking mission. HxA's membership includes academic insiders with strong views across the political spectrum (which makes us unusual for academia). What unites us is a commitment to returning our universities to their traditional purpose of searching for the truth, rather than behaving as political partisans. So when we find areas in which our policies and goals in the realm of higher education reform overlap with those of your administration, we would be happy to unite with you to refine and support such measures. If issues arise on which our goals diverge, you can count on us to point that out to you as well, and to urge you to change course.

In that spirit, Heterodox Academy stands ready to offer advice to your administration on ways it can ensure that our nation's colleges and universities are truth-seeking, knowledge-generating institutions that the American public can trust. This will require cultural changes as well as policies that advance open inquiry, viewpoint diversity, and constructive disagreement across higher education – the foundational principles that have made the American university system in particular the envy of the world.

The next generation of government and industry leaders, and of many of our fellow citizens, too, are trained in our institutions of higher education. So it is critical that our national policy unlocks the full potential of these institutions. Below, we explain why HxA's three core values are central to higher education, and we suggest four areas where your administration might support federal policy to align our universities with our core principles.

HxA has a primary commitment to academic freedom, including the freedom to teach and to learn in ways that encourage the search for knowledge. Flowing from this, HxA currently sees four key federal priorities: (1) ending political litmus tests in the hiring and promotion of faculty; (2) implementing fair Title IX Regulations that curtail discrimination without violating faculty academic freedom or due process rights; (3) protecting free speech on campus; and (4) thoughtfully addressing antisemitism on college campuses.

## **I. Our Core Values**

### *Open Inquiry*

Open inquiry—the ability to ask questions, share ideas, and challenge popular views and assumptions—is essential to the pursuit of knowledge and understanding. It is one of HxA's core values. A powerful idea may begin as a notion that seems mistaken, strange, offensive, or even dangerous. Colleges and universities should be places where such ideas can be discussed, debated, and rigorously tested, not stigmatized and stifled.

Threats to open inquiry can arrive in bold and subtle ways, and from many directions – from politicians on left and right, to universities' economic interests, to institutionalized ideology within faculty and staff.

### *Viewpoint Diversity*

Teaching and scholarship are better when we don't all think the same, which is why viewpoint diversity is one of HxA's core values.

When people with a wide range of worldviews, backgrounds, and experiences are present and welcomed, academic communities can more effectively notice untested assumptions, imagine and explore new questions and answers, rigorously challenge popular theories, and make continued progress toward truth. But when academic groups are more homogeneous, their work can suffer from blind spots and groupthink.

Viewpoint diversity that enriches academic life can derive from differences in socioeconomic status, political and philosophical views, religion, life experience, personality, cognition, and specific cultural backgrounds, and the more commonly discussed categories of race, gender, and sexual orientation.

### *Constructive Disagreement*

Disagreement can lead to deeper learning and better research — or to narrowed thinking, polarization, and intimidation. Constructive disagreement, from the classroom to the quad to the faculty lounge, is a core value at HxA.

Academic institutions have a duty to cultivate constructive disagreement, through skills and norms such as curiosity, humility, respectful dialogue, charitable listening, and appeals to evidence and reason. These practices are especially important to the education of college students, who deserve to be well prepared for the exchange of ideas on campus, in the workplace, and as part of a democracy.

Constructive disagreement is not consistent with shout-downs and intimidation, nor does it require polite silence or careless compromise. Instead, the practice of constructive disagreement shows respect through the rigorous examination of ideas and assumptions, including one's own.

## **II. Priority Federal Issues**

### *Ending Political Litmus Tests*

The history of loyalty oaths in American academia is fraught with examples of their abuse. Decades ago, educators were forced to pledge loyalty to the government and affirm subjective notions of patriotism, effectively curbing the rights of faculty and students to free speech and free association.

In its landmark 1957 case establishing that the Constitution guarantees the academic freedom of faculty at public institutions of higher education, the U.S. Supreme Court was explicit about why academic freedom in higher education is necessary to a democracy. It wrote:<sup>1</sup>

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<sup>1</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. Particularly is that true in the social sciences, where few, if any, principles are accepted as absolutes. Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise, our civilization will stagnate and die.

At issue in *Sweezy* were attempts by the government to weed communists out of the academy. The Court properly recognized that in trying to do so, the government was imposing an improper political litmus test that, if allowed to persist, would compromise the ability of educators to question the status quo and prevent our institutions from producing knowledge contrary to the understandings of the day.

Today, unfortunately, political litmus tests are once again threatening the pursuit of truth. Some institutions are requiring applicants for faculty appointments, and for those seeking promotion and/or tenure, to issue particular types of statements on diversity, equity, and inclusion (DEI). HxA recently reviewed all 1,907 active job postings on HigherEdJobs.com for full-time professorships in the United States in August 2024 and learned that 467 (24.5%) mentioned DEI statements (either asking for standalone statements or asking for DEI to be addressed/included in other statements) as part of the hiring process.<sup>2</sup>

While typically framed as tools to promote inclusivity, in practice such policies often enforce ideological conformity. Those statements can and have been used to filter out candidates who fail to conform to a rigid orthodoxy on those hotly contested issues. A telling example involved professor Yoel Inbar, whose candidacy for a position was rejected after graduate students opposed his hire because they objected to an essay he wrote earlier in his career that criticized the use of diversity statements as political litmus tests.<sup>3</sup>

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<sup>2</sup> Nate Tenhundfeld, *The Great DEI-vide*, Free The Inquiry, Sep. 1, 2024, <https://heterodoxacademy.substack.com/p/the-great-dei-vide>.

<sup>3</sup> Michael Powell, *D.E.I. Statements Stir Debate on College Campuses*, New York Times, Sep. 8, 2023, <https://www.nytimes.com/2023/09/08/us/ucla-dei-statement.html/>.

Recent data from the Foundation for Individual Rights and Expression's (FIRE) survey of 6,269 faculty members at 55 major colleges and universities reveals that faculty opinions on DEI statements are deeply divided. Approximately half of the surveyed faculty viewed statements pledging commitment to DEI as ideological litmus tests that violate academic freedom and thus deemed them as being "never" or "rarely" acceptable in hiring or promotion and tenure decisions. Roughly a third indicated that the use of DEI statements are "sometimes" or "often" acceptable in hiring or promotion and tenure decisions.<sup>4</sup>

History teaches us that loyalty oaths—by any name—erode academic freedom and weaken the intellectual foundations of our society. The strength of our nation lies within our ability to exchange ideas freely. This is, of course, true with respect to ideas about whether or how to promote DEI, just as it is true in regards to any other substantive issue. To be clear, HxA does not have a substantive position on DEI itself; rather, it is the practice of policing wrongthink that poses the threat to open inquiry.

Loyalty oaths, whether in their traditional form or cloaked as DEI statements, have no place in higher education. **We urge you to support legislation that prohibits public institutions from imposing political and ideological litmus tests on candidates for faculty positions or for those up for promotion, provided that the legislation allows an institution to consider in good faith, a candidate's scholarship, teaching, or subject-matter expertise in their given academic field.**

### *Fair Title IX Regulations*

One of the most direct ways the federal government impacts higher education is through its enforcement of federal anti-discrimination law, including the enforcement of Title IX. Institutions have a legal obligation to protect students and faculty from sex-based discrimination, and the Department of Education must be vigilant in enforcing Title IX.

From 2010 through the present day, federal policy on the enforcement of Title IX has changed as the White House changed hands. We understand that your administration will likely rescind the current Title IX regulations and begin the process of offering new regulations for notice and comment as you did during your first term.

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<sup>4</sup> Honeycutt, N. (2024). *Silence in the Classroom: The 2024 FIRE Faculty Survey Report*. The Foundation for Individual Rights and Expression. <https://www.thefire.org/research-learn/silence-classroom-2024-fire-faculty-survey-report>.

Many aspects of Title IX's application are beyond the scope of HxA's mission, but protecting academic freedom is one of our top priorities. Accordingly, HxA opposes any enforcement of Title IX that would encourage institutions to undermine the due process rights of accused faculty or pose a duty on campus administrators to police the views expressed by faculty in their classrooms or their scholarship.

Unfortunately, this is no hypothetical concern. Administrators have wrongly cited obligations under Title IX as their rationale for investigating and otherwise punishing faculty for conduct and expression that is clearly protected by academic freedom and the First Amendment. For example, Northwestern University film-studies professor Laura Kipnis was twice investigated by her institution's Title IX office, first for an op-ed she wrote criticizing Title IX overreach,<sup>5</sup> and again for writing a book about that first investigation.<sup>6</sup>

In another egregious case, Howard University concluded that law professor Reginald Robinson committed sexual harassment because one of his law school exams involved a hypothetical where a woman was injured while receiving a Brazilian wax.<sup>7</sup> A letter of reprimand was placed in Robinson's file, he was ordered to attend sensitivity training, and he was ordered to submit future exam questions to his Dean for review.<sup>8</sup> In another incident, Pacific University fired tenured professor of education Richard Paxton after concluding that he created a hostile environment in violation of Title IX. The main allegation against him: he told a story in class about an instance when he was a graduate student where he and some of his friends decided to avoid a bar when they noticed a sign above its door that read, "Y'all come in. World's Best Female Impersonators."<sup>9</sup> These are, of course, just three of many examples.

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<sup>5</sup> Laura Kipnis, *My Title IX Inquisition*, Chron. Higher Educ., May 29, 2015, <https://www.chronicle.com/article/my-title-ix-inquisition>.

<sup>6</sup> Jeannie Suk Gersen, *Laura Kipnis's Endless Trial By Title IX*, New Yorker, Sept. 20, 2017, <https://www.newyorker.com/news/news-desk/laura-kipniss-endless-trial-by-title-ix>.

<sup>7</sup> Debra Cassens Weiss, *Law prof's exam question on Brazilian wax is deemed harassment; is academic freedom threatened?*, ABA Journal, Jul. 10, 2017, [https://www.abajournal.com/news/article/law\\_profs\\_exam\\_question\\_on\\_brazilian\\_wax\\_is\\_deemed\\_harassment\\_he\\_sees\\_threa#google\\_vignette](https://www.abajournal.com/news/article/law_profs_exam_question_on_brazilian_wax_is_deemed_harassment_he_sees_threa#google_vignette).

<sup>8</sup> *Id.*

<sup>9</sup> Colleen Flaherty, *When Title IX is a Threat*, Inside Higher Ed, Feb. 21, 2021, <https://www.insidehighered.com/news/2021/02/22/pacific-u-professor-says-administrators-threatened-him-title-ix>.

Maintaining campus environments that are free from sex-based discrimination must be a top priority, but given the history of Title IX's misapplication, any new federal regulations should be crafted with academic freedom and free expression in mind.

**One important way the federal government can protect faculty from being subjected to frivolous Title IX investigations is to make sure that federal regulations define sexual harassment using the Supreme Court's standards. Efforts to broaden the definition threaten free expression and jeopardize academic freedom. The Department of Education should also make clear that academic scholarship shall not be the basis of Title IX investigations. Moreover, any new regulations should require institutions to provide accused faculty robust due process protections.**

### *Navigating Campus Unrest while Protecting Free Speech on Campus*

As our world grapples with increasingly contentious political, social, and economic issues, campuses likewise increasingly find themselves struggling to foster an environment where students and faculty can debate these pressing matters while maintaining educational environments conducive to learning.

HxA supports the lawful exercise of free speech rights, regardless of the views that are expressed, and to be sure, plenty of students and faculty have expressed their views within the bounds of law. But unfortunately, there have also been numerous examples of conduct that substantially disrupted the functioning of the institutions, which HxA does not support. It is settled law that the First Amendment applies in full force at public institutions of higher education.<sup>10</sup> And while private institutions are not bound by the First Amendment, many courts have held that those that promise free speech protections are bound pursuant to contract law to honor those commitments.<sup>11</sup>

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<sup>10</sup> *Healy v. James*, 408 U.S. 169, 180 (1972) ("Yet the precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large.").

<sup>11</sup> See, e.g., *Havlik v. Johnson & Wales Univ.*, 509 F.3d 25, 34 (1st Cir. 2007) ("The relevant terms of the contractual relationship between a student and a university typically include language found in the university's student handbook . . . . We interpret such contractual terms in accordance with the parties' reasonable expectations, giving those terms the meaning that the university reasonably should expect the student to take from them."); *Ross v. Creighton Univ.*, 957 F.2d 410, 416 (7th Cir. 1992) ("It is held generally in the United States that the 'basic legal relation between a student and private university or college is contractual in nature. The catalogues, bulletins, circulars, and regulations of the institution made available to the matriculant become a part of the contract.'");

There is a misconception that the First Amendment either protects all expressive conduct, including conduct that creates substantial disruptions on campus, or that the exceptions are so broad as to allow campus administrators to silence any voices they find inconvenient or otherwise disfavor.

Neither view accurately captures the wisdom of the free speech jurisprudence. “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”<sup>12</sup> Although viewpoint-based regulation of expression is clearly off the table, the case law wisely allows government actors, including public institutions, to regulate conduct that is harassing,<sup>13</sup> constitutes true threats,<sup>14</sup> or imminently incites violence.<sup>15</sup> It also allows institutions to regulate the time, place, and manner of otherwise protected expression, provided those regulations employ reasonable, content-and viewpoint-neutral criteria, are narrowly tailored in furtherance of a significant institutional interest, and leave open ample alternative channels of communication.<sup>16</sup>

Institutions have significant interests in preventing disruptions to classes and campus events, preserving libraries as places of study, and protecting the physical safety of every member of their communities. Policies that advance those interests are permissible—and in many instances even necessary—provided they otherwise pass Constitutional muster.

Unfortunately, despite the legal obligations of most institutions of higher education, our universities have a spotty record, at best, regarding the consistent protection of free speech rights on campus. According to the latest data from FIRE, “most schools maintain policies that infringe on free speech.”<sup>17</sup> Only roughly 13% of the 489 institutions whose policies were reviewed for the report had policies that were completely consistent with the First Amendment.

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*Corso v. Creighton Univ.*, 731 F.2d 529, 531 (8th Cir. 1984) (“The relationship between a university and a student is contractual in nature.”).

<sup>12</sup> *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

<sup>13</sup> *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 651 (1999).

<sup>14</sup> *Counerman v. Colorado*, 600 U.S. 66 (2023).

<sup>15</sup> *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

<sup>16</sup> *Ward v. Rock Against Racism*, 491 U.S. 781, 804 (1989).

<sup>17</sup> FIRE, *Spotlight on Speech Codes 2024* (2024), <https://www.thefire.org/research-learn/spotlight-speech-codes-2024>.



It should surprise no one that institutions' responses to protests and other expressive conduct are all over the map. And institutions' historically inconsistent approaches to freedom of expression are leaving everyone from policy makers to students and faculty skeptical that they are or will truly enforce free speech rights even-handedly.

**Your administration can fix this once and for all by pushing for Congress to put legislation on your desk that codifies free speech protections on public college campuses and requires private institutions to both disclose their free speech policies and certify that those policies contractually bind them.** While public institutions would be free to set their own policies, setting the legal boundaries of those policies would help bring them in line with what they should already be doing under the caselaw.

During your first administration<sup>18</sup> and in recent comments on YouTube,<sup>19</sup> you rightly championed free speech on college campuses. Open inquiry requires a legal framework that protects students and scholars from censorship and a campus culture that supports the rights of people to research, teach, debate, and discuss even the most controversial of ideas. **While the federal government's ability to shape campus culture is more limited, it can and should set the appropriate legal framework by codifying free speech protections on college campuses.**

### *Constitutional Solutions to Address Antisemitism on College Campuses*

The deadly attacks of October 7, 2023, set off a chain reaction of events that engulfed the Middle East in war and presented American colleges with significant free speech challenges. As faculty, students, and administrators grappled with the conflict, a heightened focus on Middle East issues emerged in American higher education, sparking nationwide protests on college campuses. These protests varied in nature. Some were entirely within the protections of the First Amendment, while others unlawfully sought to exclude others from public spaces based on their identities or politics,<sup>20</sup> and in some cases

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<sup>18</sup> Exec. Order No. 13864, 84 Fed. Reg. 11401 (Mar. 21, 2019).

<sup>19</sup> Kennedy, *Trump: Free Speech*, YouTube (Nov. 9, 2024), <https://www.youtube.com/watch?v=xJfUXVOoFBo>.

<sup>20</sup> Amanda Starrantino, *Pro-Palestinian Encampment Blocks UCLA Students from Entering Library During Midterms*, KCAL News (Apr. 30, 2024), <https://www.cbsnews.com/losangeles/news/pro-palestinian-encampmentblocks-ucla-students-from-entering-library-during-midterms/>.

involved unlawful occupations of campus buildings.<sup>21</sup> Some of the anti-Israel protests turned violent.<sup>22</sup> There have been numerous allegations of antisemitic vandalism and harassment of Jewish students and faculty.<sup>23</sup> Even the home and car of a Jewish member of the University of Michigan's Board of Regents was vandalized.<sup>24</sup> At the same time, faculty on both sides of the issue have been sanctioned for what appears to be protected speech.<sup>25</sup>

Amid these events, it is likely that infractions of expressive rights occurred on all sides of the debate. This letter does not seek to adjudicate the numerous campus clashes. However, it's clear that institutions of higher education are struggling to meet their legal and moral obligations to protect Jewish students and faculty from harassment and other forms of discrimination. Further, it is vital that whatever reforms are enacted do not themselves limit open-inquiry and viewpoint diversity. Below, HxA offers guidance on these sensitive issues. In brief, we can best weather this storm by re-committing ourselves to the time-tested principles of First Amendment jurisprudence.

During your first administration you sought to address the issue of antisemitism through Executive Order 13899 on Combatting anti-Semitism<sup>26</sup> and throughout your campaign you indicated that more needed to be done.

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<sup>21</sup> Irie Sentner, *Pro-Palestinian Columbia Students Occupy Academic Building*, Politico (Apr. 30, 2024), <https://www.politico.com/news/2024/04/30/pro-palestinian-columbia-student-protesters-occupy-academic-building-00155078>.

<sup>22</sup> Gabriel Diamond, *Protests Turn Violent at Yale*, Wall Street Journal (Apr. 21, 2024), <https://www.wsj.com/articles/protests-turn-violent-at-yale-higher-education-college-campus-anti-israel-92c48b3f>.

<sup>23</sup> Minyvonne Burke, *Jewish University of Rochester Faculty and Staff Members Targeted in Hundreds of 'Wanted' posters Across Campus*, NBCNews.com (Nov. 13, 2024), <https://www.nbcnews.com/news/us-news/jewish-university-rochester-faculty-staff-targeted-hundreds-wanted-pos-rcna179941>.

<sup>24</sup> Jake Tapper, *University of Michigan Regent's Home Vandalized in Antisemitic Attack*, CNN.com (Dec. 9, 2024), <https://www.cnn.com/2024/12/09/us/university-of-michigan-regents-vandalized-acker/index.html>.

<sup>25</sup> See Ryan Quinn, *Tenured Jewish Professor Says She's Been Fired for Pro-Palestinian Speech*, Inside Higher Ed (Sep. 27, 2024), <https://www.insidehighered.com/news/faculty-issues/academic-freedom/2024/09/27/tenured-jewish-prof-says-shes-fired-pro-palestine>; See also Aleka Gomez-Sotomayor-Roel, *Hundreds of Columbia Affiliates Sign Letter Condemning Suspension of Shai Davidai, Calling for Reversal*, Columbia Spectator (Nov. 2, 2024), <https://www.columbiaspectator.com/news/2024/11/02/hundreds-of-columbia-affiliates-sign-letter-condemning-suspension-of-shai-davidai-calling-for-reversal/>.

<sup>26</sup> Executive Order 13899 (Combating Anti-Semitism), 84 Fed. Reg. 68779 (Dec. 11, 2019), <https://www.federalregister.gov/documents/2019/12/16/2019-27217/combating-anti-semitism>.

Part of the challenge is that existing legal tools for addressing antisemitism are inadequate. But a complicating factor is a lack of clarity by administrators about how to address antisemitism in a way that is compatible with their obligations to protect the free speech and academic freedom rights of the members of their communities. Heterodox Academy can help.

First, it's important to remember that for solutions to be effective and durable they must be constitutional. Just as there is no hate speech exception to the First Amendment,<sup>27</sup> there is no antisemitic speech exception to the First Amendment either. For practical purposes, this means that attempts to define "antisemitism" for use in campus disciplinary proceedings are misguided. Such attempts also are likely unconstitutional, as the only federal court to address the question preliminarily concluded.<sup>28</sup>

The real question isn't whether the particular expression is antisemitic, but rather whether it crossed the line into one of the unprotected categories of speech, like true threats, harassment, or incitement of violence as discussed above.

Public institutions must maintain policies that define the contours of student and faculty speech rights using the Supreme Court's definitions of those terms and they must only punish expression that satisfies those exacting definitions. Speech that is bigoted but protected may be unpunishable, but it need not be ignored either. The prevalence of antisemitic behavior on campus could warrant other nonpunitive interventions like programming to foster better dialogue or support services for impacted students.

Similarly, robust protections for free expression do not require institutions to allow people to disrupt the functioning of their campuses. While HxA does not support policies that quarantine protests to misleadingly labeled "free speech" zones, protest rules must apply evenly to all regardless of the views expressed. Still, institutions do their students a disservice when they allow some on campus to shut down campus buildings like libraries,

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<sup>27</sup> See *Texas v. Johnson*, 491 U.S. 397, 414 (1989) ("If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."); See also *Matal v. Tam*, 582 U.S. 218, (2017) ("Speech that demeans on the basis of race, ethnicity, gender, religion, age, disability, or any other similar ground is hateful; but the proudest boast of our free speech jurisprudence is that we protect the freedom to express 'the thought that we hate.'").

<sup>28</sup> *Students for Justice in Palestine v. Abbott*, 1:24-CV-523-RP (W.D. Tex. Oct. 28, 2024) (Declining to issue preliminary injunction, but concluding that a Texas Executive Order instructing public institutions to use the IHRA definition and its examples in campus disciplinary proceedings likely violated the First Amendment.).

shout down speakers they disagree with, or claim the right to exclude their adversaries from public spaces. Existing Supreme Court case law provides the right framework for resolving these issues. **HxA urges you to support congressional efforts to require public institutions to reform their speech policies to reflect judicial definitions and standards for time, place, and manner regulations. It should also insist that institutions use those policies when unprotected conduct creates a hostile environment.**<sup>29</sup>

Title VI is a crucial tool to combat antisemitism on college campuses, but it has been abused. As important as it is to foster an environment free from antisemitic harassment, that goal does not justify purging campuses of critics or courses critical of Israel. Students and faculty have the right to be free from harassment, they do not have the right to avoid ideas that offend them. For over six decades the Supreme Court has been clear that the government may not ban ideas from public colleges without violating the principles of academic freedom or the First Amendment.<sup>30</sup> This principle protects critics of Israel, just as it protects supporters of Israel from campus administrators or future administrations who may be less sympathetic.

Historically, as your return to the White House demonstrates, the pendulum of power tends to swing back and forth in the United States. Preserving academic freedom is the right thing to do in principle, but it is also necessary to prevent the targets of censorship from constantly shifting whenever levers of power change hands. If you are concerned—as HxA is—that institutions lack viewpoint diversity, setting the precedent that the government may empower institutions to terminate or otherwise sanction professors with unpopular views will only exacerbate that problem. **We urge your Department of Education to enforce Title VI in a manner that is consistent with the First Amendment and its narrow exceptions.**

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<sup>29</sup> It should go without saying, but actual violence is never protected by the First Amendment. Whether motivated by antisemitism, prejudice against another group, or any other reason, institutions must take firm stances against violence.

<sup>30</sup> *Sweezy*, 354 U.S. at 250 (“The essentiality of freedom in the community of American universities is almost self-evident...To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation.”); *See also Keyisian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)(“Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us, and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”).

Addressing antisemitism on college campuses will require more than legal reforms. Our campuses—like our society at large— must do a better job of fostering constructive disagreement. To improve our campus climates we must get out of the mindset of “us vs. them.” Changing our culture to one that embraces our disagreements of opinion will be no easy task and there is no silver bullet solution. **Your administration can help by championing reforms that seek to add to the diversity of views expressed on campus by protecting disfavored views rather than silencing them.**

### III. Conclusion

The challenges facing higher education today are immense. Heterodox Academy is hopeful that we can work with your administration and also with allies across the political aisle to shape higher education policy in a manner that will ensure that our institutions are places where intellectual curiosity thrives.

HxA stands ready to work with your administration to advance open inquiry, viewpoint diversity, and constructive disagreement in higher education. By disincentivising political litmus tests, implementing fair Title IX regulations, protecting free speech on campus, and thoughtfully addressing antisemitism on college campuses, we can help ensure that our universities are focused on truth seeking, knowledge generation, and the free exchange of ideas.

Thank you for your attention to our analysis. HxA wishes you the best of luck as you begin your second term. If we can be of any assistance, please reach out to Joe Cohn and Raheem Williams at [cohn@heterodoxacademy.org](mailto:cohn@heterodoxacademy.org) and [williams@heterodoxacademy.org](mailto:williams@heterodoxacademy.org).

Respectfully,



John Tomasi  
President  
Heterodox Academy

cc: Chairman Bill Cassidy  
Senate Health, Education, Labor & Pensions Committee  
428 Senate Dirksen Office Building, Washington, DC, 20510

Ranking Member Bernie Sanders  
Senate Health, Education, Labor & Pensions Committee  
428 Senate Dirksen Office Building, Washington, DC, 20510

Chairman Tim Walberg  
House Education and the Workforce Committee  
2176 Rayburn House Office Building, Washington, DC 20515-6100

Ranking Member Robert "Bobby" Scott  
House Education and the Workforce Committee  
2176 Rayburn House Office Building, Washington, DC 20515-6100