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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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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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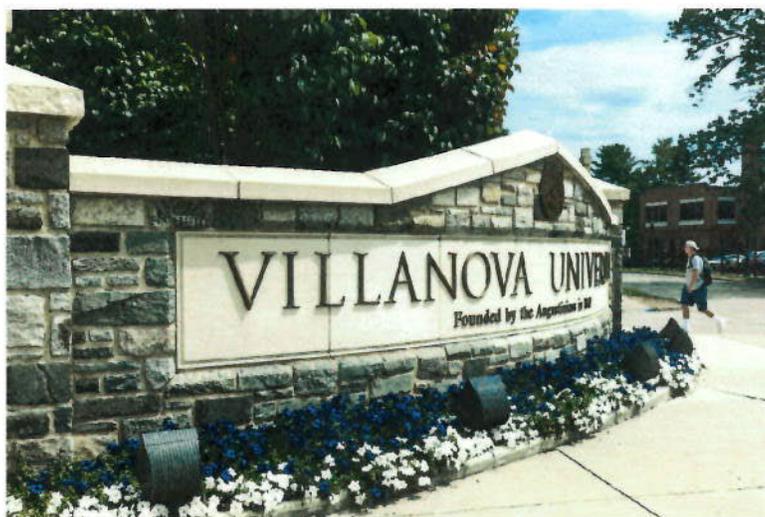
OPINION | COMMENTARY

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.

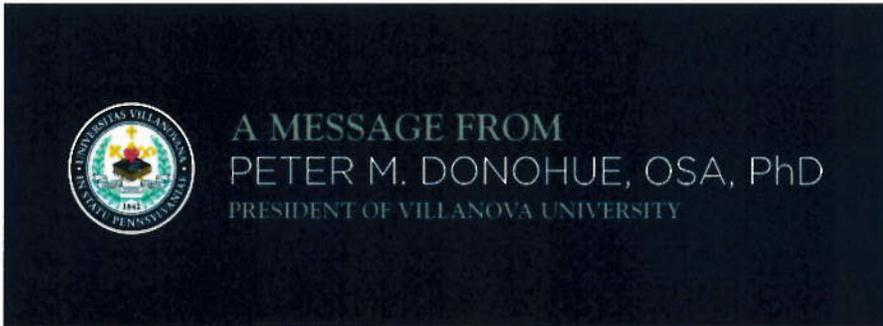
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A Message from the President and Provost



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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