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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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To: Members of the Senate Finance and Judiciary Committees
 From: Senator Grassley, Chairman of the Finance Committee
 Member, Senate Judiciary Committee
 Date: October 28, 2020
 Re: The state of academic freedom at U.S. colleges and universities

Dear Fellow Committee Members:

The last few years have brought about an increasing number of stories that give me concern about the state of academic freedom in the Nation's colleges and universities. In August 2019, former Yale Law School dean and current professor Anthony Kronman wrote in the *Wall Street Journal* that higher education was 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 According to Prof. Kronman, this is important because

[f]or college students, the search for truth is important not because reaching it is guaranteed—there are no such guarantees—but as a discipline of character. It instills habits of self-criticism, modesty and objectivity. It strengthens their ability to subject their own opinions and feelings to higher and more durable measures of worth. It increases their self-reliance and their respect for the values and ideas of those far removed in time and circumstance.²

This past July, my predecessor as Chairman of the Finance Committee, former Sen. Orrin Hatch, wrote in the *Wall Street Journal* that college campuses need to reform their cultures by eliminating "safe spaces, trigger warnings, speaker boycotts and other practices meant to stifle debate and honest inquiry" while renewing a commitment to intellectual diversity. He also suggested legislators withhold federal funding from

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

² *Id.*

colleges and universities unwilling to adopt protections for professors and students with divergent views.³

At the beginning of the last academic year, I wrote to four different colleges and universities to ask them about their handling of situations involving professors who suffered difficulties because they challenged their students in some way, according to news reports. These colleges are tax-exempt under section 501(c)(3) of the tax code and have committed to nonprofit purposes such as “promot[ing] an intellectual environment built on a commitment to free and open inquiry,”⁴ “the discovery, dissemination and application of knowledge,”⁵ and “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.”⁶ I wrote to these colleges and universities to see how they were keeping their commitments to these nonprofit purposes. This letter discusses and attaches their responses.

1. Duke University

At the end of the 2018-19 academic year, Duke University declined to renew a contract with Associate Professor Evan Charney who had taught for 20 years at Duke’s Sanford School of Public Policy. According to Duke, “Professor Charney [had a] 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.”⁷

The university generally responded to my letter by writing that its decision not to renew Prof. Charney’s appointment as an associate professor “was made after a thorough review conducted by the faculty of the Sanford School of Public Policy in accordance with the policies governing such appointments, which include excellence in teaching, scholarship and service to the Duke community.”⁸ Duke did not elaborate on the details of this decision but did confirm

³ Orrin Hatch, *Higher Ed and the Fragmentation of America*, WALL STREET JOURNAL, July 27, 2020, available at <https://www.wsj.com/articles/higher-ed-and-the-fragmentation-of-america-11595865575>.

⁴ Duke University 2016 Form 990 Schedule O, available at <https://projects.propublica.org/nonprofits/organizations/560532129/201801359349312415/IRS990ScheduleO>.

⁵ Villanova University 2016 Form 990, available at <https://pdf.guidestar.org/PDF/Images/2017/231/352/2017-231352688-0f013c21-9.pdf>.

⁶ Sarah Lawrence College 2016 Form 990, available at <https://pdf.guidestar.org/PDF/Images/2017/237/223/2017-237223216-0efb8714-9.pdf>.

⁷ 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/>.

⁸ Letter from Vincent E. Price, President, Duke University, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Oct. 30, 2019), at 2.

the authenticity of the report from Duke's Faculty Hearing Committee that described Prof. Charney as having a "confrontational teaching style."⁹ Professor Charney says Duke fired him because, "[f]irst, 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...."¹⁰

2. Harvard College

At the end of the 2018-19 academic year, Harvard College 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*, Profs. Sullivan and Robinson had held such positions since 2009, but Prof. Sullivan attracted controversy in January 2019 when he joined the criminal defense team for disgraced movie producer Harvey Weinstein.¹¹ Apparently at that point, many Harvard students protested Prof. Sullivan's continued position as faculty dean of Winthrop House, and vandals spray-painted graffiti around the Harvard campus expressing a similar view.

Harvard first responded to my questions by stating, "The mission of Harvard College ... is to educate citizens and leaders for our society, which we achieve through our commitment to the transformative power of a liberal arts and sciences education."¹² It also described the role of its college faculty deans as "chief administrative officers and the presiding faculty presence" who "set the tone for the culture of each [residential college], carrying the dialogue and discovery from formal academic settings into the residences and breaking down the barriers that can exist between students and faculty."¹³ Specifically addressing its decision not to reappoint Profs. Sullivan and Robinson as faculty deans of Winthrop House, Harvard responded that this decision "was rooted in the concern that Professor Sullivan and Ms. Robinson were not in a position to meet the requirements of the critical role of faculty deans." According to Harvard, this was partly due to "Professor Sullivan's extended absences from Winthrop House during a period of crisis," and "[t]heir overall record as faculty deans was also a factor in the decision."¹⁴

⁹ *Id.* at 3.

¹⁰ 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/>.

¹¹ 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>.

¹² Letter from Lawrence S. Bacow, President, Harvard University, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Oct. 23, 2019), Appendix A, at 1.

¹³ Letter from Lawrence S. Bacow, President, Harvard University, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Oct. 23, 2019), at 3.

¹⁴ *Id.* at Appendix A, 1-2.

Prof. Sullivan stated in the New York Times that he believed the Harvard “administration capitulated to protestors ... [and] said and did nothing in response to the vandalism.”¹⁵

3. Sarah Lawrence College

In October 2018, Sarah Lawrence College professor Samuel J. Abrams wrote a piece in the *New York Times* 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.¹⁶ Students at Sarah Lawrence College appear to have retaliated against Prof. Abrams for having written this piece by defacing his office door and calling for him to be stripped of tenure and fired. According to news reports, administrators at Sarah Lawrence College were tepid in coming to his defense and even told him that, by his *New York Times* piece, he created a “hostile work environment” at the college.¹⁷

In its letter, Sarah Lawrence College responded with a discussion of its campus community that it calls, “Principles for Mutual Respect” and which students receive during orientation. The third such principle is, “We foster honest inquiry, free speech, and open discourse. We seek wisdom with understanding.”¹⁸ The college confirmed that the day after Prof. Abrams’s office door was defaced, which was shortly after the *New York Times* published his piece, the college’s president, Dr. Cristle Collins Judd, sent a campus-wide email that included the following language:

As part of our commitment to a powerful educational model, we must together strive to create an open, supportive, and fully inclusive community. That requires all members of our community to work together within a covenant of mutual respect. Such respect need not imply acceptance of a point of view, but it does insist upon the right to express the perspective as central to tenets of free expression and to use reasoned dialogue and intellectual persuasion to process differences in belief.¹⁹

¹⁵ 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>.

¹⁶ 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>.

¹⁷ 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>.

¹⁸ Letter from Cristle Collins Judd, President, Sarah Lawrence College, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Oct. 25, 2019), at 1 (enclosure pg. 1).

¹⁹ Letter from Cristle Collins Judd, President, Sarah Lawrence College, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Oct. 25, 2019), at 3 (enclosure pg. 3) and Exhibit A, 1.

According to a news report, several Sarah Lawrence College professors met with President Judd and discussed the vandalism and “express[ed] their view that such acts could not be tolerated.” Reportedly, Judd agreed, but “did not pledge to take any further actions.” The report also stated that these professors that met with her believed she was “scared that the students might hold more protests, creating a public relations disaster.”²⁰

4. Villanova University

In March 2019, Villanova University professors Colleen A. Sheehan and James Matthew Wilson wrote a piece in the *Wall Street Journal* in which they discussed how Villanova 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.’” They allege that such evaluation criteria would chill teaching topics like (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.

Villanova responded,

The pursuit of truth in Catholic universities is fundamentally grounded in academic freedom wherein faculty members have the ability to research, create, teach and express themselves in accord with their own best judgment. At Villanova, we believe that students also need to have the freedom to inquire, express opinions, explore ideas and engage in discussions.²¹

Villanova’s letter continued in part by emphasizing that the university’s relatively new “diversity and inclusion” questions on its course and teaching evaluations “were developed based on input from students and faculty and are not used for tenure or evaluations of faculty performance for employment purposes.” They “are not among the questions that are used in faculty rank and tenure evaluations, or performance or merit pay evaluations,”²² but rather, “this information is intended to be used by faculty members, and their respective Department Chairs, to improve their teaching based upon

²⁰ 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>.

²¹ Letter from Rev. Peter M. Donohue, President, Villanova University, to Sen. Charles Grassley, Chairman, United States Senate Committee on Finance (Nov. 1, 2019), at 2.

²² *Id.* at 3.

how their students view their performance concerning diversity and inclusion related issues.”²³

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The difficulties described above all seem to have a common theme, which is that colleges and universities appear to be catering to the sensitivities of their students over the best interests of a rigorous academic environment.

For every generation, college is a scary time. For many college students, it involves moving far away from home, usually for the first time in a student’s life, away from the neighborhoods they have always known and friends who have always been nearby. Despite being around thousands of other young adults, loneliness is common. So are feelings of insecurity and inadequacy, even if they are not obvious. Students used to getting the best grades in high school all of the sudden become average, sitting next to new classmates who also got the best grades in high school. Students used to high school teachers telling them how gifted they are now take classes from professors who will probably never even learn their names. Papers that got A’s in high school might now get C’s from college teaching assistants. Political or cultural arguments that made teenagers feel smart in high school now get countered right away by classmates who also used to think their own arguments were really great arguments. That feeling of having your ideas cut down to size can often feel like a punch to the gut, and it is immutable. Every generation goes through it. To use a popular phrase of the current generation of college students, these sorts of experiences have a way of making college students “feel unsafe” – and they’re supposed to. This is part of what Prof. Kronman called the “discipline of character.” His words about this effort are worth repeating, as these experiences “instill[] habits of self-criticism, modesty and objectivity ... strengthen[] [an] ability to subject [one’s] own opinions and feelings to higher and more durable measures of worth.” Parents who are paying the bills should demand such character-building services from their colleges. That’s why colleges and universities are tax-exempt. Parents should not be paying for just a four-year vacation for their children at the end of which they receive a credentialing ticket into a social class they think they are buying their children’s way into.

At the beginning of this Congress, I had the pleasure of sitting down in my office with Harvard’s president, Dr. Lawrence Bacow, and we talked about a variety of things. One of the things I asked President Bacow was simply, why is college getting so expensive? After making clear to me that Harvard does not charge tuition for students from lower-income families and has a policy of not wanting its students to graduate with debt, he generally stated that college is getting expensive because more and more students, and their parents, are demanding more and more services from higher education. That may be the case but it strikes me as an answer that is better provided by a for-profit company. A for-profit company that does not cater to the demands of its customers might soon find itself going out of business. But non-profit entities, like

²³ *Id.* at 6.

schools, are a little different in that they have a higher calling than simply responding to the demands of the marketplace. This is one of the reasons we generally do not tax them, because their goal is not to maximize a return for investors. Rather, that goal is generally to do those things the colleges and universities discussed above describe as their tax-exempt purposes, such as “promot[ing] an intellectual environment built on a commitment to free and open inquiry,” and “preparing the whole student to solve problems in new ways.” As non-profit entities, colleges and universities are supposed to strive for these goals even when they do not maximize profits. As an aside, I suspect most students and most parents really want higher education to be a rigorous and character-building experience for them and their children, so I suspect colleges and universities that fulfill their tax-exempt purposes *are* serving their financial best interests.

I worry about the state of higher education, and the academic freedom that is necessary for it to thrive, when I hear about a professor being fired because he “has a tendency to provoke negative reactions, and perhaps harm, among some students in the classroom due to his confrontational teaching style,” which, looking at it from another reasonable perspective, could be another way of describing a professor who challenged his students. It also gives me concern to see a story about a college that does not discipline students who try to intimidate a professor by defacing his office simply because they did not like one of his opinions. The college administration’s response to such an attack should be swift and certain. Otherwise, academic freedom suffers.

Some people will say this letter is about calling out colleges for being too liberal. To be sure, our colleges and universities could use more intellectual diversity, but that is not what this is about. Rather, this letter is about the two-way street that is academic freedom: our colleges and universities must ensure that their professors can freely teach their students and that students are free to learn, without retribution. The next time a college or university representative visits you or your staff about any given issue, I hope you take a minute or two to ask them how committed they are to creating and sustaining an environment in which professors are free to teach and students are free to learn.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance

ATTACHMENTS

1. Duke University
 - a. Letter to Duke University of September 25, 2019
 - b. Response from Duke University of October 30, 2019
2. Harvard University
 - a. Letter to Harvard University of September 25, 2019
 - b. Response from Harvard University of October 23, 2019
3. Sarah Lawrence College
 - a. Letter to Sarah Lawrence College of September 25, 2019
 - b. Response from Sarah Lawrence College of October 25, 2019
4. Villanova University
 - a. Letter to Villanova University of September 25, 2019
 - b. Response from Villanova University of November 1, 2019