



November 24, 2015

Professor Anthony Chase
President, Faculty Council
Occidental College
1600 Campus Road
Los Angeles, California 90041

Sent via Electronic Mail (achase@oxy.edu)

Dear Professor Chase:

The Foundation for Individual Rights in Education (FIRE) unites leaders in the fields of civil rights and civil liberties, scholars, journalists, and public intellectuals across the political and ideological spectrum on behalf of liberty, legal equality, academic freedom, due process, freedom of speech, and freedom of conscience on America's college campuses. Our website, thefire.org, will give you a greater sense of our identity and activities.

FIRE writes to you today out of concern for the free speech, academic freedom, and freedom of conscience rights of the faculty of Occidental College, which are threatened by a resolution facing review by the Faculty Council. While the animating concerns that motivated the resolution may be shared by many Occidental faculty, certain provisions of the resolution would, if put into effect, effectively impose an institutional orthodoxy on faculty that is incompatible with the college's academic mission. These provisions include mandatory diversity training for faculty, proposals to re-center college curricula around issues of diversity, social justice, and identity, and the call for a new system to report "microaggressions" committed by Occidental faculty. In its current state, the faculty should reject this resolution as a threat to their fundamental rights.

Where curricular matters are concerned, FIRE notes that the resolution calls for, among other reforms, requiring all departments to "incorporate issues of cultural and racial identity and diversity in their curricula" and the drafting of a model curriculum to be institutionalized throughout the college that "center[s] issues of social justice and identity in our academics." Such requirements would presumably apply equally across the humanities, social sciences, and natural sciences. The resolution also calls for future faculty reviews to "address Faculty Handbook criteria for tenure and promotion with respect to promoting success of a diverse group of students, and in particular, historically

underrepresented students of color.” Departments and programs will be subject to “[e]xternal reviews” to evaluate their compliance with these goals. More broadly, the resolution calls on the faculty to “[c]ommit to implementing and mandating diversity training for all faculty,” which “will be ongoing and will include mandatory ally training.”

How such reforms are to be carried out, and the criteria by which faculty members are to be judged, raises concerns that faculty will be pressured to adopt specific ideological viewpoints that infringe on both their private conscience and their academic freedom. The preamble to the resolution, which opens with an admission of culpability of all Occidental faculty for perceived structural failures and injustices, adds to this concern:

We recognize that the structural racism and other forms of oppression of the College violate our commitment to ensuring equity and excellence in our educational programs for all of our students. We also acknowledge that our collective inaction as a faculty body makes us complicit in the failures of the College to make our Mission a lived reality.

Reasonable faculty can agree or disagree about the truth of this statement. But in FIRE’s experience, officially subscribing all faculty to this viewpoint will likely have the effect of pressuring faculty to publicly affirm this viewpoint to avoid censure or administrative discipline even if they harbor private disagreements, in violation of their right to freedom of conscience. Such institutionalized ideology is incompatible with the values of liberal education and academic freedom. We urge the Faculty Council to recall the Supreme Court’s wisdom in its landmark ruling for freedom of conscience in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943):

Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not occur to us.

Finally, FIRE is concerned with the resolution’s call for an “effective mechanism for students to address and report microaggressions or other conflicts between students and faculty.” This chilling new authority is effectively designed to police faculty expression in a way all but guaranteed to undermine their rights. Faculty will inevitably choose to self-censor rather than offer honest scholarly or personal opinions on difficult or controversial matters, knowing that even the smallest perceived slight might result in their speech being reported to the administration, possibly for investigation and discipline.

Ironically, the resolution calls for faculty to center their pedagogy on “issues of social justice and identity” while making it far riskier for them to actively and honestly engage such topics. Diversity and identity are complex and often fraught cultural matters, and professors must be able to freely engage their students in discussing them without fear of reprisal. The weakening of speech protections for faculty inherent in the proposed mechanism for reporting microaggressions only heightens fears that the passage of this resolution will have the effect of pressuring faculty to adopt a highly specific, ideologically charged set of viewpoints by which they, and their prospects for advancement at Occidental, will be judged.

While the goals of the resolution are no doubt broadly admirable to many, if not most, of the Occidental faculty, the serious concerns the resolution raises for freedom of speech, freedom of conscience, and academic freedom necessitate rejection in its current form. We hope that a thorough discussion of the resolution by the Occidental faculty will lead them to the same conclusion, and that the faculty as a result may address the resolution’s central concerns in a matter compatible with their fundamental rights.

We appreciate your attention to FIRE’s concerns.

Sincerely,



Peter Bonilla

Director, Individual Rights Defense Program

cc:

Jonathan Veitch, President

Jorge Gonzalez, Dean of the College