

September 26, 2025

Mr. Joseph Harroz, Jr.
Office of the President
University of Oklahoma
660 Parrington Oval, Room 110
Norman, Oklahoma 73019

Sent via U.S. Mail and Electronic Mail (officeofthepresident@ou.edu)

Dear President Harroz:

FIRE, a nonpartisan nonprofit that defends free speech,¹ is concerned by the University of Oklahoma's recently sent memo instructing faculty members to, among other things, avoid "using stereotypes" and "hostile ... methods" like "privilege walks [and] race- or sex-based assignments."² This memo infringes on faculty members' academic freedom and goes far beyond the requirements of Oklahoma SB 796 and EO 2023-31, upon which the restrictions are purportedly based.³ As a public university bound by the First Amendment,⁴ OU must allow faculty members to lawfully communicate with and instruct their students as they see fit. We urge OU to end these restrictions.

On May 13, the Oklahoma State Legislature passed SB 796, which proscribes certain university practices related to diversity, equity, and inclusion. The statute, which codifies into law Governor Kevin Stitt's EO 2023-31 promulgated two years prior, reads in relevant part:⁵

A. No institution of higher education within The Oklahoma State System of Higher Education shall utilize state funds, property, or resources to:

...

¹ For more than 25 years, FIRE has defended freedom of expression, conscience, and other individual rights on America's college campuses. You can learn more about our mission and activities at thefire.org.

² Email conversation between Ross Marchand, FIRE program counsel, and OU faculty member (Sept. 3, 2025, 1:36 P.M.) (on file with author).

³ *Id.*

⁴ *Healy v. James*, 408 U.S. 169, 180 (1972) ("[T]he 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. Quite to the contrary, 'the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.'" (internal citation omitted)).

⁵ S.B. 796, 60th Leg., 1st Sess. (Okla. 2025).

2. Mandate any person to participate in, listen to, or receive any education, training, activities, procedures, or programming to the extent such education, training, activities, procedures, or programming grants preferences based on one person's particular race, color, sex, ethnicity, or national origin over another's;

...

4. Mandate any person to certify or declare agreement with, recognition of, or adherence to any particular political, philosophical, religious, or other ideological viewpoint[.]

The legislation clarifies that it is not meant to restrict “[t]he academic freedom of any individual faculty member to direct the instruction within his or her own course,” or “[s]cholarly research or creative work by an institution of higher education’s students, faculty, or other research personnel or the dissemination of such research or work.”⁶

On August 25, Vice President and Associate Provost Belinda Higgs Hyppolite, Ed.D., sent a memo to deans, directors, and department chairs discussing “evaluation tools for faculty and colleges to consider when reviewing courses.”⁷ The memo mandates faculty and colleges to “[e]xplore ways to present the material effectively **without**: ... Requiring students to adopt ideological positions or ‘confess’ to personal bias. ... Using stereotypes (e.g., ‘all white people are inherently privileged’ or ‘toxic masculinity’).” The memo further instructs faculty and colleges to ask, “[d]oes the **title, subject matter, or pedagogy** reflect hostility, preference, or detriment based on race, national origin, sex, or religion? If so, revise to ensure compliance.” Finally, the university states, “privilege walks, race- or sex-based assignments, or requiring students to affirm certain beliefs may trigger enforcement action.”⁸ (emphasis in original)

This memo has already deterred faculty members from including certain material and exercises in their courses that they formerly deemed valuable. For example, political science professor Melody Rowlett stated, “I thought [privilege walks] added to the course and that is why I included it. It was useful for students and broadened their ability to think critically.”⁹

By setting broad-based limits on what and how faculty members can teach in their classrooms, the memo impermissibly infringes on academic freedom. The First Amendment, which applies with full force to public colleges such as OU,¹⁰ protects faculty pedagogy even with regard to topics or viewpoints some might not like or may find odious.¹¹ Free speech is the “lifeblood of

⁶ *Id.*

⁷ Email conversation, *supra* note 2.

⁸ *Id.*

⁹ Anusha Fathepure, *Division of Access and Opportunity memo advises instructors to avoid DEI related content*, OU DAILY (Sept. 2, 2025), https://www.oudaily.com/news/dei-division-access-opportunity-chicago-statement/article_ofcac5f0-1597-4e79-9161-5dc26506007a.html.

¹⁰ *Healy*, 408 U.S. at 180 (“[T]he 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. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’”) (internal citation omitted).

¹¹ *See, e.g., Hardy v. Jefferson Cmty. Coll.*, 260 F.3d 671, 680 (6th Cir. 2001).

academic freedom,”¹² and academic freedom is “a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom.”¹³ Higher education depends on “wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, rather than through any kind of authoritative selection.”¹⁴

OU’s memo casts a “pall of orthodoxy” by restricting a substantial amount of protected expression by faculty members.¹⁵ If *anything* in a course’s subject matter can be interpreted to reflect “hostility” or favoritism toward any sex, race, nationality, or religion, the teaching professor could be sanctioned by the university. This broad sweep may even implicate courses dealing with a particular religion (e.g., Jewish history courses) or discussions on slavery in the antebellum South. Similarly, OU’s blanket proscription on the use of “stereotypes” may put professors at risk if they make generalizations that may be necessary for their pedagogy. Anything from a discussion of the “Protestant work ethic” to a statement that “Muslims pray five times a day towards Mecca” may, under OU’s memo, be grounds for investigation and possible punishment.

The First Amendment protects a wide variety of expression, including potentially uncomfortable discussions about the role of race and religion in U.S. and world history and culture. If the government may not outlaw burning the American flag,¹⁶ punish wearing a jacket emblazoned with “Fuck the Draft,”¹⁷ or penalize cartoons depicting a pastor losing his virginity to his mother in an outhouse,¹⁸ its agencies (like OU) certainly may not prohibit professors from teaching practically any classroom topic touching on race, religion, sex, or nationality. This is true unless those teaching methods themselves represent a form of unprotected expression under the First Amendment.

Compounding the problem is that OU’s memo is impermissibly vague, failing to “give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly.”¹⁹ Key terms such as “stereotype” and “hostility” are undefined, leaving faculty unsure which remarks or activities could land them in trouble. While one administrator tasked with enforcing the memo could interpret “hostility” narrowly as unlawful discrimination (e.g., grading students differently based on their race), another administrator could interpret it to preclude constitutionally protected race-based discussions that could make students feel uncomfortable. This significant uncertainty cannot be squared with the First Amendment.

¹² *DeJohn v. Temple Univ.*, 537 F. 3d 301, 314 (3d. Cir. 2008); see also *Rosenberger v. Rectors of the Univ. of Va.*, 515 U.S. 819, 836 (1995) (“For the University, by regulation, to cast disapproval on particular viewpoints of its students risks the suppression of free speech and creative inquiry in one of the vital center for the Nation’s intellectual life, its college and university campuses.”).

¹³ *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967).

¹⁴ *Id.* (cleaned up).

¹⁵ See *id.*

¹⁶ *Texas v. Johnson*, 491 U.S. 397, 414 (1989) (burning the American flag is protected by the First Amendment, the “bedrock principle underlying” the holding being that government actors “may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable”).

¹⁷ *Cohen v. California*, 403 U.S. 15, 25 (1971).

¹⁸ *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50 (1988).

¹⁹ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

Finally, it's critical to note that the language of SB 796 and EO 2023-31 simply does not mandate the restrictions on academic freedom contained in this memo. The language requires only that covered universities refrain from compelling a variety of speech or programming. A more defensible application might (for example) entail universities removing required DEI statements from student and faculty applications or promotion criteria or making enrollment in DEI-related courses voluntary instead of mandatory. However, the law does *not* require courses or their instructors to change content. Indeed, the law's language makes clear that faculty members are free "to direct the instruction within his or her own course."²⁰ OU's misapplication of the law jeopardizes faculty members' academic freedom, which is explicitly guaranteed in SB 796.

FIRE calls on the University of Oklahoma to remove the restrictions contained in its memo and make clear that faculty members are free to "direct the instruction within his or her own course," echoing the language of SB 796.

FIRE would be pleased to assist in the revision of this policy, free of charge and in accordance with our charitable mission. We respectfully request a substantive response to this letter no later than close of business on October 14, 2025.

Sincerely,



Ross Marchand
Program Counsel, Policy Reform

²⁰ S.B. 796, *supra* note 5.