

The American Civil Liberties Union (ACLU) is deeply concerned by the proposed removal of references to diversity, equity, and inclusion from the Western Association of Schools and Colleges: Senior College and University Commission (WSCUC) 2023 Standards of Accreditation because it will negatively impact faculty, staff and students, especially people of color.

Diversity, equity, and inclusion strategies ensure all students have equal access to higher education. They are necessary to correct for discrimination and unfair barriers to opportunity. Diversity, equity, and inclusion also provide educational and social benefits for all students in colleges and universities. Studies have shown that diversity amongst students and faculty increases intellectual engagement, relationship building, and critical thinking skills.¹²³ A study of over 13,000 undergraduate students found that interacting with diverse peers, attending campus-facilitated diversity programming, and attending multicultural events correlated with increased perspective-taking, appreciation for other cultures, critical thinking and writing skills, and intellectual motivation.⁴ These findings were significant across races, demonstrating that diversity benefits students of all races and ethnicities.⁵

WSCUC's proposal does not exist in a vacuum. President-elect Donald Trump has threatened to weaponize the accreditation process to suppress disfavored ideas. Specifically, he announced a plan to fire accreditors and to only accept applications from accreditors who remove diversity, equity, and inclusion from their standards. WSCUC should not be pressured into removing well-reasoned standards by President-elect Trump's threats that run headlong into the First Amendment and principles of academic freedom. If accreditation decisions are made based on partisan and ideological calculations rather than academic rigor and pedagogy, it will be disastrous for institutions of higher learning, and for our democracy. Academic freedom, a bedrock democratic principle, protects classroom instruction and scholarship from politically motivated censorship. The Supreme Court has repeatedly cautioned against attempts to "cast a pall of orthodoxy over the classroom," specifically noting that "The classroom is peculiarly the marketplace of ideas. The Nation's future depends on leaders trained through 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." *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967). Recognizing the higher education's "vital role in a democracy," the Supreme Court declared, "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." *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

¹ Patricia Gurin et al., "Diversity and Higher Education: Theory and Impact on Educational Outcomes," *Harvard Educational Review* 72, no. 3 (September 1, 2002): 330–67, <https://doi.org/10.17763/haer.72.3.01151786u134n051>.

² Asycue, Jennifer, Erica Frankenberg, and Genevieve Siegel-Hawley. Research brief - The National Coalition on School Diversity, March 2017. <https://school-diversity.org/pdf/DiversityResearchBriefNo10.pdf>.

³ Crisp, Richard J., and Rhiannon N. Turner. "Cognitive Adaptation to the Experience of Social and Cultural Diversity." *Psychological Bulletin* 137, no. 2 (March 2011): 242–66. <https://doi.org/10.1037/a0021840>.

⁴ Gurin et al., *supra* note 1.

⁵ *Id.*

The ACLU and its legal partners have successfully challenged restrictions on instruction on racism and sexism in higher education. In *Pernell v. Lamb*, we obtained a [preliminary injunction](#) blocking enforcement of the higher education provisions of Florida's Stop W.O.K.E. Act. The federal district court order held that educators' First Amendment right to teach from their academic expertise far outweighed the state's interest in indoctrinating students to its preferred viewpoint. Similarly, in our challenge to Oklahoma's H.B. 1775, *B.E.R.T. v. Drummond*, a federal district court issued a [preliminary injunction](#), holding that the language restricting curricular speech was unconstitutionally vague, leaving educators to the impossible task of reconciling professional teaching standards with the law's restrictions.

President-elect Trump now seeks to manipulate accreditation standards in an effort to continue the politically motivated, censorious attack on classroom instruction that has already been deemed unconstitutional by courts. Removing references to diversity, equity, and inclusion from accreditation standards would eliminate an important protection for institutions and educators who seek to meet the standards of their academic discipline, even when some politicians disagree. It will have a broad chilling effect, denying students the open exchange of ideas in academic settings that the Constitution and Supreme Court have long protected. The proposed changes will have an acutely chilling effect on race-related coursework, in light of conservative efforts to conflate any reference to race or racism with diversity, equity, and inclusion.

WSCUC included references to diversity, equity, and inclusion to "express a commitment to success for all students, ensure institutional quality, and promote institutional cultures of evidence and improvement." Political intimidation should not outweigh that commitment, especially given that diversity, equity, and inclusion improves learning for all students. Educators and students have a right to teach and learn free from government interference. We ask that WSCUC maintain the references to diversity, equity, and inclusion in its 2023 accreditation standards.