

June 7, 2023

Dear President Hartzell and Provost Wood,

We welcome the university-wide communication “Post-Legislative Update” [1] from President Hartzell concerning SB 17 on DEI [2] and SB 18 on tenure [3]. We hope that regular communication on these matters will occur moving forward. Otherwise, the void gets filled with rumors, uncertainty, and anxiety, as happened during the Legislative session while we were trying to recruit and retain students, staff, faculty, and administrators.

We are concerned that in the “Post-Legislative Update”, President Hartzell expresses satisfaction with SB 18. This bill codifies a tenure system with dangerously broad grounds for termination and without adequate due process provisions, both of which are contrary to the standards adopted by more than 1300 colleges and universities [4] including UT Austin and UT System as well as our competitors. SB 18 allows governing boards and institutions to add to tenure protections, and we hope that the UT System and its component institutions will work closely with their faculty councils/senates to enhance tenure protections to reach the national standard [4]. In particular, we recommend clearly defining the overly broad categories for dismissal in Section 3(c-1) of SB 18 including

- engaged in unprofessional conduct that adversely affects the institution
- moral turpitude
- violated ... university system or institution policies substantially related to the performance of the faculty member 's duties

to prevent these categories from being used arbitrarily by an administration. We also recommend providing due process procedures that allow the tenured faculty member facing termination to

- examine and challenge the evidence presented against them
- gather information from witnesses
- have a faculty committee evaluate the case
- finish the grievance process before termination takes effect.

Having all the above tenure protections will help provide checks and balances to administrative actions as well as restore faith in tenure in the UT System and its component institutions including UT Austin. Moreover, it will help counter the national narrative against tenure by some of the members of the Texas Legislature as we seek to recruit and retain tenure-track and tenured faculty.

SB 17 bans DEI programs, practices, officers, and offices at a public university or community college. The bill sends a clear message to public university and community college students that our state government is not committed to welcoming students, staff, and faculty from all backgrounds and to building a public higher education system that is truly inclusive and supportive of all. Further, this bill regulates all interactions at a public university or community college, and calls for termination of employees who violate the ban on DEI programs and policies, the latter of which are vaguely defined. This bill undermines the tenet of academic freedom essential to a

thriving and innovative institution of higher education. Academic freedom is freedom from censorship by the government or institution. Given the penalties, faculty and staff will self-censor in their interactions with students to avoid any perception that they might be violating some aspect of the bill. In fact, the chilling effect is already being felt in some departments.

DEI is woven throughout the fabric of campus life for students, staff, and faculty, and we recommend that the Administration engage fully in shared governance with Faculty Council, Staff Council, the three branches of Student Government, and other campus community members to figure out how to navigate the uncharted waters of SB 17 and rebuild trust in the university leadership by our campus community. SB 17, for example, leaves much confusion with regards to many aspects of teaching and research. After Jan. 1, 2024, SB 17 does not appear to allow a faculty member to submit grants that require DEI programs during the grant, or require the institution to institutionalize the DEI program after the grant ends as is required by many National Science Foundation grants [5]. Since SB 17 does not exempt grants awarded prior to Jan. 1, 2024, the restrictions imposed by SB 17 apply to all grants in force on or after Jan. 1, 2024. What happens to those grants and the faculty members leading them? Teaching has many aspects to it, not just what takes place during the officially scheduled meeting time for a class. Which topics and activities can and cannot take place during a class period is unclear, in part because students can bring up any topic. It is also not clear what faculty can and cannot do outside of the classroom related to diversity, equity, and inclusion. Please see the Texas AAUP Conference Press Release on SB 17 [6].

In his “Post-Legislative Update”, President Hartzell makes several comments about creating a welcoming environment at UT Austin for students. These comments are encouraging to see, and we hope comments like this, with more specifics, are forthcoming for students as well as staff and faculty.

In addition to SB 17 and SB 18, Lt. Gov. Dan Patrick has asked the Governor to add SB 16 [7] as an item for a special session. SB 16, as revised and passed by the Senate in April, requires that a faculty member “may not compel or attempt to compel a student enrolled at the institution to adopt a belief that any race, sex, or ethnicity or social, political, or religious belief is inherently superior to any other race, sex, ethnicity, or belief.” This prohibition applies to any interaction between a faculty member and a student at the institution (not just in the classroom) and carries a penalty of termination of the faculty member for violating this provision, regardless of tenure status. This bill censors speech on the topics of race, sex, and ethnicity as well as social, political, and religious beliefs, both inside and outside the classroom. SB 16 would create a chilling effect on academic freedom and allow students to weaponize good faith disagreements, such as grading of an assignment, against a faculty member. We believe that this issue is also worth addressing proactively in a future message by President Hartzell.

Best,

Brian, Andrea, Bill, Jen, Karma and Polly

Speaking for ourselves as officers in the [UT Austin AAUP Chapter](#) and not on behalf of any other group, institution, or organization

Brian L. Evans, President, [UT Austin AAUP Chapter](#)  
Andrea C. Gore, Vice President, [UT Austin AAUP Chapter](#)  
Jennifer V. Ebbeler, Treasurer, [UT Austin AAUP Chapter](#)  
William F. Fagleson, Secretary, [UT Austin AAUP Chapter](#)  
Karma R. Chavez, At-Large Member, [UT Austin AAUP Chapter](#)  
Pauline T. Strong, At-Large Member, [UT Austin AAUP Chapter](#)

## References

- [1] Jay Hartzell, "[Post-Legislative Update](#)", June 7, 2023
- [2] [Texas Senate Bill 17](#), 88th Legislature, 2023
- [3] [Texas Senate Bill 18](#), 88th Legislature, 2023
- [4] National standards for tenure including due process procedures for tenured faculty members include
- [1940 Statement of Principles on Academic Freedom & Tenure](#), jointly formulated by American Association of Colleges & Universities (AAC&U) representing college and university administrations and the American Association of University Professors (AAUP) representing professors. AAC&U has more than 800 college and university members. UT Austin is a member of the AAC&U.
  - [1956 Statement on Procedural Standards in Faculty Dismissal Proceedings](#), jointly formulated by the AAUP and AAC&U. AAC&U has more than 800 college and university members. UT Austin is a member of the AAC&U.
  - [1966 Statement on Government of Colleges and Universities](#), jointly formulated by the American Association of University Professors (AAUP), American Council on Education (ACE), and Association of Governing Boards of Universities & Colleges (AGB). The AAUP represents faculty members, ACE represents university administrations, and AGB represents University Systems, Boards of Regents and Boards of Trustees. ACE has more than 1500 college and university members and AGB has more than 1300 college, university, and system members. UT Austin is a member of ACE, and UT System is a member of ACE and AGB.
- [5] Brian Evans, Andrea Gore, Brian Korgel, Diana Marculescu, and Angela Valenzuela, "[How Senate Bill 17 and Banning Diversity, Equity and Inclusion \(DEI\) Jeopardizes University Research Funding: A STEM Perspective](#)", Apr. 15, 2023.
- [6] [Texas AAUP Conference Press Release on Passage of SB 17](#), May 28, 2023.
- [7] [Texas Senate Bill 16](#), 88th Legislature, 2023