

**Report of a Special Committee:  
Political Interference and Academic Freedom in  
Florida's Public Higher Education System<sup>1</sup>**

(December 2023)

*What we are witnessing in Florida is an intellectual reign of terror. There is a tremendous sense of dread right now, not just among faculty; it's tangible among students and staff as well. People are intellectually and physically scared. We are being named an enemy of the State. The events at Jacksonville too, feel real, and people feel it could happen to them.<sup>2</sup>*

—LeRoy Pernel, professor of law, Florida A&M (interview with the special committee)

*The human toll in Florida is catastrophic. We are tired of being demonized by our government. Many of us are looking to leave Florida, and if we don't, we will leave academia, and nobody wants our jobs. Faculty are suffering. And when we leave, our communities, our students, families—they will all suffer. So, when we fight for faculty, we are also fighting for the people in our communities.*

—A faculty member and union leader in Florida (interview with the special committee)

In November 2022, Florida governor Ronald Dion DeSantis, a Republican, won reelection by a decisive margin and his party gained supermajorities in both houses of the state legislature. The governor's first term had been characterized by alarming signs of authoritarian tendencies, including the passage of measures that would ban the teaching of "critical race theory" in public schools and prohibit discussion of sexual orientation or gender identity in classrooms. Reelection quickly led to a series of additional legislative initiatives and executive appointments that collectively marked a dramatic and dangerous shift in the state's political environment.

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<sup>1</sup> The text of this report was written in the first instance by the members of the special committee. In accordance with Association practice, the text was then edited by the AAUP's staff and, as revised with the concurrence of the special committee, was submitted to Committee on A on Academic Freedom and Tenure. With that committee's approval, it was distributed to the principal parties for comment and corrections of fact. In the light of the responses received and with the editorial assistance of the Association's staff, this final report has been prepared for publication.

<sup>2</sup> Associated Press, "Jacksonville Shootings: What We Know about the Racist Killings," August 29, 2023, <https://apnews.com/article/deadly-shooting-florida-store-race-bd2bf9591f40903a923dbd8a46d8fb97>.

Governor DeSantis, who soon announced a campaign for the presidency, proudly declared Florida a state where “woke goes to die.” *Woke* originally meant “aware of and actively attentive to important societal facts and issues (especially issues of racial and social justice)” but has been repurposed by conservatives to mean “politically liberal or progressive (as in matters of racial and social justice) especially in a way that is considered unreasonable or extreme.”<sup>3</sup> In their self-proclaimed “war on woke” DeSantis and his supporters employed increasingly inflammatory rhetoric, “pushing back against the tactics of liberal elites.”<sup>4</sup> The Florida House and Senate passed legislation and the DeSantis administration took executive actions that further aimed to censor the teaching and learning of certain historical topics; potentially criminalize some discussions of race, gender, and sexuality; stigmatize, marginalize, and exclude transgender people; curb labor rights; restrict immigration; and stringently limit access to abortion.

In the wake of these developments, it quickly became apparent that the governor’s education program, which initially focused on K–12 schools, had ominous and direct consequences for public higher education as well. The threat to higher education and, more specifically, to foundational principles of shared governance and academic freedom, intensified in early January 2023 when the governor appointed six new trustees to the board of New College of Florida, an alternative liberal arts college within the Florida public higher education system. Those highly partisan appointees vowed to “demonstrate that the public universities, which have been corrupted by woke nihilism, can be recaptured, restructured, and reformed.”<sup>5</sup>

Responding to these developments, the AAUP in January 2023 announced the formation of the undersigned special committee to inquire into what the Association described as an “apparent pattern of politically, racially, and ideologically motivated attacks on public higher education” and to prepare a report of its findings.<sup>6</sup>

In May 2023, this committee issued a preliminary report, concluding that “academic freedom, tenure, and shared governance in Florida’s public colleges and universities currently face a politically and ideologically driven assault unparalleled in US history,” which, “if sustained, threatens the very

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<sup>3</sup> *Merriam-Webster*, s.v. “woke,” accessed November 20, 2023, <https://www.merriam-webster.com/dictionary/woke>.

<sup>4</sup> “Governor DeSantis Elevates Civil Discourse and Intellectual Freedom in Higher Education,” January 31, 2023, <https://www.flgov.com/2023/01/31/governor-desantis-elevates-civil-discourse-and-intellectual-freedom-in-higher-education/>.

<sup>5</sup> Christopher F. Rufo, Twitter post, January 6, 2023, <https://twitter.com/realchrisrufo/status/1611406507815636993>.

<sup>6</sup> AAUP, “Special Committee to Report on Academic Freedom in Florida,” January 26, 2023, <https://www.aaup.org/news/special-committee-report-academic-freedom-florida>.

survival of meaningful higher education in the state, with the direst implications for the entire country.”<sup>7</sup> The preliminary report offered four main findings: (1) the “hostile takeover” of New College is both a “test case” and a “blueprint for future encroachments on public colleges and universities across the country”; (2) academic administrators in Florida “not only have failed to contest” attacks on the system “but have too frequently been complicit in and, in some cases, explicitly supported them”; (3) legislation enacted by Governor DeSantis and the legislature, “taken collectively, constitutes a systematic effort to dictate and enforce conformity with a narrow and reactionary political and ideological agenda” and represents “a uniquely bold and dangerous program designed to reshape public higher education according to ideological and partisan political standards”; and (4) “the chilling effect on academic freedom of the governor’s and legislature’s efforts has already been felt by faculty and students.”

Incorporating material from our preliminary report, this final report reaffirms those findings and expands upon them. It also considers more explicitly how AAUP-supported principles and standards are implicated. And it broadens the scope of inquiry not only to cover subsequent events but also to incorporate the perspectives of many additional interviewees. The special committee conducted interviews by videoconference from mid-February through late September 2023, meeting with more than sixty-five individuals, including faculty members, students, alumni, trustees, and retired university leaders, including former presidents. We also conducted follow-up interviews, conversations, and email exchanges with some of these individuals over the course of several months. Our committee extended invitations for interviews to an array of current Florida higher education administrators, but only two responded. In a February 9 email message, Ray Rodrigues, chancellor of the Florida board of governors, and Kathy Hebda, chancellor of the Florida College System, declined our invitations by citing a series of comments made by AAUP president Irene Mulvey, stating, “Since the president of AAUP has consistently concluded political interference exists in Florida’s higher education system, it is difficult to accept that the AAUP’s special committee will fairly and fully consider any testimony to the contrary.” We indicated to the chancellors that we would, in fact, welcome information or perspectives to the contrary and were not bound by President Mulvey’s comments. They persisted in declining nonetheless.

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<sup>7</sup> AAUP, “Preliminary Report of the Special Committee on Academic Freedom and Florida,” May 24, 2023, [https://www.aaup.org/file/Preliminary\\_Report\\_Florida.pdf](https://www.aaup.org/file/Preliminary_Report_Florida.pdf).

## I. The Takeover of New College

*This is a test case for a conservative overhaul of higher education—and it isn't going to stay isolated to New College or Florida.*<sup>8</sup>

—Nicholas Clarkson, assistant professor of gender studies at New College (resigned August 17, 2023)

*What's happening at New College is a disgrace.*

—Bernie Machen, president emeritus, University of Florida (interview with the special committee)

To get a sense of what the DeSantis-led assault on higher education hopes to achieve, we have only to look at recent events at New College. Located in Sarasota, New College of Florida was founded in 1960 as a private institution known simply as New College. In 1975, it joined the state university system as part of the University of South Florida, with which it shared a branch campus. In 2001, as part of a reorganization of Florida's public education system, the state legislature made New College an independent institution in the state system, designating it as the "Honors College for the State University System" and giving it its current name. The University of South Florida was directed to relocate its facilities away from the New College campus, which it did in 2006. Prior to this year's takeover, New College was known as a leading alternative liberal arts college, offering fifty highly individualized majors in arts, humanities, and sciences. The college was also known for its tolerance of diversity and its "quirky" and iconoclastic students. Faculty and administrators regularly complained that the school was underfunded, but until this year the legislature remained unresponsive, citing low enrollment, which was 669 in fall 2022. Many, however, believed that conservative politicians' real objection was to New College's image as a haven for what they were beginning to label as "the woke."

To achieve the takeover of New College, in January 2023 Governor DeSantis appointed six new members to its board of trustees; the state board of governors appointed one new member as well. The newly appointed board members were Ryan Anderson (the board of governors' appointee), Mark Bauerlein, Debra Jenks, Charles R. Kesler, Christopher Rufo, Matthew Spalding, and Jason "Eddie" Speir.<sup>9</sup>

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<sup>8</sup> Joseph Contreras, "'Where Learning Goes to Die': DeSantis's Rightwing Takeover of a Liberal Arts College," *Guardian*, September 3, 2023.

<sup>9</sup> In May, the Florida Senate declined to confirm the appointment of Speir, founder of Inspiration Academy, a Christian high school in Bradenton, even though he had attended several board meetings, voting with the other DeSantis appointees. He had used his personal newsletter to raise the idea of firing all New College employees and rehiring only those "who fit in the new financial and business model." Speir had also called for eliminating tenure at New College and had advanced conspiracy theories about COVID-19 vaccines. Speir publicly blamed his failure to win approval on New College president Richard Corcoran, a DeSantis ally and former legislative leader, who was hired by the new board after it fired former president Patricia Okker. To replace Speir, Governor DeSantis

Five of the seven—Anderson, Bauerlein, Kesler, Rufo, and Spalding—are well-known conservative academics or activists who appear to live outside Florida. Perhaps the best known is Rufo, the chief strategist behind the national campaign to demonize critical race theory (CRT), conflating it with diversity, equity, and inclusion (DEI) programs and fueling a conservative backlash against DEI efforts and CRT.<sup>10</sup> Spalding, a dean at Hillsdale College in Michigan, and Kesler, a professor at Claremont McKenna College in California, were both part of the Trump administration’s 1776 Commission, which produced a widely criticized rebuttal to the *New York Times*’s 1619 Project; Anderson is president of the Ethics and Public Policy Center, a conservative think tank based in Washington, DC.

On January 6, Rufo tweeted about the takeover of the New College board, “We are now over the walls and ready to transform higher education from within. Under the leadership of Gov. DeSantis, our all-star board will demonstrate that the public universities, which have been corrupted by woke nihilism, can be recaptured, restructured, and reformed.”<sup>11</sup> Rufo’s goals for New College, also laid out in a tweet, included restructuring the administration, developing “a new core curriculum,” eliminating DEI policies, and restructuring academic departments.

The first meeting of the New College board of trustees attended by the newly appointed members took place on January 31. The trustees were met by hundreds of students, faculty members, and alumni protesting what they charged was a “hostile takeover” by the new conservative appointees. Earlier in the day, Rufo had appeared with the governor at a news conference in Bradenton, just north of the campus, where the governor pledged an infusion of \$15 million at New College to be spent on hiring new faculty and scholarships for students, with an additional \$10 million every year thereafter.

The trustees voted nine to three to terminate the appointment of President Patricia Okker, effective immediately. According to a statement issued following the meeting, the board “appointed Dr. Bradley Thiessen as the interim president and made a motion to approve entering into discussions with Richard Corcoran, former commissioner of the Florida Board of Education [and Republican speaker of the Florida House of Representatives], to assume the role [of] interim president effective March 1,

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appointed his former general counsel and chief ethics officer Joe Jacquot. In July, Speir announced that he would challenge Rep. Vern Buchanan in the 2024 Republican primary election. See Josh Moody, “Florida Senate Rejects New College Trustee Choice,” *Inside Higher Ed*, May 11, 2023; Caden DeLisa, “DeSantis Appoints Joe Jacquot to New College Board of Trustees after Failed Senate Confirmation of Eddie Speir,” *Capitolist*, May 22, 2023; William March, “Ousted New College Trustee to Challenge U.S. Rep. Vern Buchanan,” *Tampa Bay Times*, July 8, 2023.

<sup>10</sup> Benjamin Wallace-Wells, “How a Conservative Activist Invented the Conflict over Critical Race Theory,” *New Yorker*, June 18, 2021.

<sup>11</sup> Christopher F. Rufo, Twitter post, January 6, 2023, <https://twitter.com/realchrisrufo/status/1611406507815636993>.

2023.”<sup>12</sup> The trustees also accepted the resignation of board chairperson Mary Ruiz, appointing Debra Jenks, a college alumna and one of the new trustees, to serve as the new chair.

In her remarks before the vote, President Okker acknowledged that she was aware of the board’s plan to terminate her appointment, citing social media posts from two trustees a few days before the meeting. She regretted that she would “disappoint” her supporters who had urged her to stay on and push back against the governor’s plans for New College. She was unable to remain president, she explained, because she could not “in good conscience” seek contributions from donors by telling them that New College students were being “indoctrinated,” as Governor DeSantis and some of the new trustees had alleged.<sup>13</sup>

At its February 28 meeting, with then-interim president Corcoran newly in office, the board of trustees voted to eliminate the college’s Office of Outreach and Inclusive Excellence (OOIE) and to remove the request for diversity statements by job candidates from the faculty handbook.<sup>14</sup>

Between the January and April board meetings, New College was thrown into chaos. Faculty members with whom we spoke during those months expressed anxiety, fear, and uncertainty regarding their futures and the future of New College. They were deeply concerned for their students, who were in academic and personal turmoil. One faculty member told us, “We’re all in disbelief. When we pass

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<sup>12</sup> “Statement Following the Board of Trustees Meeting, January 31, 2023,” New College of Florida, <https://www.ncf.edu/news/statement-following-the-board-of-trustees-meeting-january-31-2023/>. Corcoran, “in a 2021 speech at Michigan’s right-wing Hillsdale College, came close to calling for the collapse of the public school system through student attrition and said the political war ‘will be won in education.’” (Kathryn Joyce, “The Florida of Today Is the America of Tomorrow’: Ron DeSantis’s New College Takeover Is Just the Beginning of the Right’s Higher Ed Crusade,” *Vanity Fair*, February 10, 2023, <https://www.vanityfair.com/news/2023/02/ron-desantis-new-college-florida>).

<sup>13</sup> Jacob Ogles, “New College’s Board of Trustees Votes to Terminate President Patricia Okker,” *Florida Politics*, February 1, 2023, <https://floridapolitics.com/archives/585024-trustees-fire-patricia-okker-as-new-college-president/>.

<sup>14</sup> On October 3, 2023, following a search, the board named Corcoran interim president. His compensation package was around \$1 million, double that of his predecessor, and could reach as high as \$1.5 million, well beyond what other presidents in the system are paid (*Miami Herald* Editorial Board, “Florida Declares War on Academic Freedom. Who Gets the Big Payout? A DeSantis Ally,” *Miami Herald*, October 12, 2023). It is perhaps worth noting that when Corcoran was previously under consideration for the presidency of Florida State University, the Southern Association of Colleges and Schools Commission on Colleges raised questions about a possible conflict of interest with his role as state education commissioner and member of the board of governors.

All OOIE staff were transitioned to other positions on campus except for Yoleidy Rosario-Hernandez, the dean of diversity, who was dismissed instead of being offered the position of associate dean of housing and residential life in student affairs, as had been announced at the February board meeting. The campus community learned of Rosario-Hernandez’s dismissal through media coverage, including in the *Washington Post*. “I am the first casualty in many ways,” Rosario-Hernandez stated presciently (Jack Stripling, “Ousted Florida College Diversity Leader: ‘I Am the First Casualty,’” *Washington Post*, March 10, 2023, <https://www.washingtonpost.com/education/2023/03/10/new-college-diversity-officer-fired/>).

each other on campus we just look at each other and have no response to the simple question, ‘How are you?’ We just shake our heads as we walk on.”

To make matters worse, at its April 26, 2023, meeting, the board denied tenure to five faculty members. All five had applied for tenure in their fifth year (rather than the sixth), a relatively common practice at New College. Faculty members told us that historically about one-third of the college’s faculty have applied for tenure in the fifth year. Prior to the April 26 meeting, seven pending tenure cases had already been approved by the faculty review committee, the provost, and interim president Thiessen (prior to interim president Corcoran’s taking office). Nevertheless, President Corcoran subsequently called in the seven faculty members and advised them they should withdraw their applications pending before the board or risk being denied tenure.

Five of the seven declined to take that advice. President Corcoran inserted a memorandum into each of their files, which read in part,

I recommend the Board of Trustees defer its decision on awarding tenure to the Candidate. If that is not possible, I recommend denying tenure at this time. This recommendation is based on extraordinary circumstances including but not limited to: (1) changes in administration including new President and new Provost—whereby many of these positions are currently held in Interim status; (2) turnover of a majority of the Board of Trustees; (3) *a renewed focus on ensuring the College is moving towards a more traditional liberal arts institution*; and (4) the related current uncertainty of the needs of the divisions/units and College. (emphasis added)<sup>15</sup>

It is obvious from this memorandum that, rather than engaging with the substantive content of each tenure application, President Corcoran, from that point forward, would gauge applications by their alignment with the purported new mission and vision for New College, in clear violation of AAUP-supported standards of academic freedom and tenure as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, as well as the college’s collective bargaining agreement. The trustees voted to deny tenure to all five faculty members.<sup>16</sup>

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<sup>15</sup> New College of Florida Board of Trustees meeting packet, April 26, 2023, [https://www.ncf.edu/wp-content/uploads/2023/04/BOT-Meeting-April-26-2023\\_Full-Packet-compressed.pdf](https://www.ncf.edu/wp-content/uploads/2023/04/BOT-Meeting-April-26-2023_Full-Packet-compressed.pdf).

<sup>16</sup> Hugo Viera-Vargas, a professor of Caribbean/Latin American studies and music and one of those denied tenure, joined by the United Faculty of Florida and its New College chapter, filed suit in August 2023 against the New College board of trustees and the system board of governors alleging that a law signed by Governor DeSantis, SB 266, which says grievances “may not be appealed beyond the level of a university president,” is unconstitutional (see below). The collective bargaining agreement between New College and the faculty union, United Faculty of Florida, includes a right to arbitrate grievances. Viera-Vargas appealed the denial of his tenure application, but President Corcoran rejected the grievance in July, citing the law. The lawsuit argues that “the arbitration ban curtails Viera-Vargas’s academic freedom and forces him to engage in self-censorship” and that he

Then faculty chair Matthew Lepinski, also a board member, told this committee, “I was hopeful that the tenure cases would be discussed in a substantive way. And if they were discussed, their strength would come through. A couple of these cases were crazy good. The files ranged from strong to ‘oh my god, how did we get this person?’ It was crushing to me and the students that there was no discussion of the merits of each case.” Lepinski announced his resignation from his faculty position at the end of the board meeting. In response, trustee Rufo tweeted, “I wish Dr. Lepinski well and look forward to recruiting his replacement . . . any faculty that prefer the old system of unfettered left-wing activism and a rubber-stamp board are free to self-select out.”<sup>17</sup>

Two days after the board meeting, President Corcoran wrote to the campus community, stating, “Wednesday’s board meeting was difficult for everyone, not least for myself.” He offered an assurance that “tenured faculty should be confident that their positions are secure” and reminded the community that the professors denied tenure could reapply the following year. He also reminded the faculty that he and interim provost Thiessen were “developing the framework for a foundational core curriculum as mentioned at the Faculty Q&A session last week.”<sup>18</sup> Less than six hours later, members of the Provost Advisory Committee (the faculty personnel committee at New College) and other members of the community, including two former New College presidents, sent a response to President Corcoran. It read in part,

Our candidates stood when they were ready, as many of us did, in their 5th year. In fact, some of the external letters of review said that these candidates would have earned tenure in their home departments at R1 Universities such as [Florida State University] and University of South Carolina. In short, they are stellar, and it’s unclear that any Trustee understood that, since it

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was denied tenure, in part, because President Corcoran disagrees with “certain subjects” that he teaches (“New College Professor Who Was Denied Tenure Sues School’s Board of Trustees,” *Sarasota Herald-Tribune*, August 4, 2023; Josh Moody, “Professor Denied Tenure Sues New College of Florida,” *Inside Higher Ed*, August 8, 2023).

<sup>17</sup> Within hours of the board meeting, the New College chapter of United Faculty of Florida (UFF), the faculty union, issued a press release condemning the tenure denials:

Today’s decision, to our knowledge the first time that the New College trustees have gone against the recommended outcome of our extensive review process, is an unprecedented disruption of that procedure and an abdication of the responsibility of the board to support the college. Despite standing in their fifth year (one year earlier than their mandatory year), our candidates met or exceeded expectations throughout the faculty review process for 5 years and at every stage of the tenure review process, as judged by all qualified parties at New College and by experts in each candidate’s scholarly field. The board’s denial of their tenure status at this stage is a nakedly political action that is hostile to the college and the very academic program they are charged with supporting. This action severely undermines the integrity of our academics and portends a dark future for the college’s ability to attract and retain quality faculty. This is just one step in the downfall of higher education in Florida.

<sup>18</sup> Thiessen became interim provost and vice president of academic affairs in March, after Corcoran became interim president (and Thiessen stepped down from that position).



seems like their files were not even read or discussed. To deny these faculty tenure that they have clearly earned this year is not only an insult to them, but an insult to all of us. . . . The decisions made at the Board of Trustees substantially damaged the level of trust between the administration and faculty. It is now up to you to repair the trust. Here are some suggestions. Trust the faculty's expertise in faculty personnel decisions, from hiring to tenure. Make and keep meetings with our Educational Policy Committee to collaborate on curriculum. And call a special Board Meeting to approve tenure and promotion of this year's candidates as soon as possible. Each of these suggestions has to date been ignored.

In mid-May the New College faculty voted to censure the board of trustees, with a reported 80 percent voting to approve the motion. In a letter to President Corcoran, the faculty argued that the board had failed in its fiduciary duties by not "caring for the institution's reputation and for student, faculty, and staff well-being" and by "endangering the College's ability to fulfill its mission." The letter cited potential conflicts of interest by some trustees and "unprofessional behavior" by board members, whom the faculty accused of disparaging students and employees on social media.<sup>19</sup>

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<sup>19</sup> The full text of the May 22, 2023, resolution follows:

Move to censure the New College of Florida Board of Trustees for failing in their fiduciary duties of first: caring for the institution's reputation and for student, faculty, and staff well-being; and second: endangering the College's ability to fulfill its mission of preparing "intellectually curious students for lives of great achievement" and offering "a liberal arts education of the highest quality in the context of a small, residential public honors college with a distinctive academic program which develops the student's intellectual and personal potential as fully as possible; encourages the discovery of new knowledge and values while providing opportunities to acquire established knowledge and values; and fosters the individual's effective relationship with society."

Whereas the New College of Florida Board of Trustees is charged (per BOG) with fiduciary duties of care (to pursue New College's interests with diligence and prudence), loyalty (to place interests of New College above your own), and obedience (ensure New College complies with applicable laws and acts according to New College's own policies);

Whereas both the presiding officer of the board and a majority of other voting members of the board must be free of any contractual, employment, or personal or familial financial interest in the institution;

Whereas the New College of Florida Board of Trustees should not be controlled by a minority of board members or by other organizations or interests;

and

Whereas public records requests revealed that an independent actor (Bob Allen) has exerted external influence over the Board of Trustees in contradiction to the principle of independence;

Whereas Trustee Jenks acted as a minority actor in isolation from other Board members, directing the College to freeze ongoing faculty and independent contractor searches during February 2023;

Whereas Trustee Spalding acted as a minority actor in isolation from other Board members, to communicate with Richard Corcoran in order to name him as interim president outside of public meetings ("The Sunshine");

In May, President Corcoran declined to renew the contract of visiting professor Erik Wallenberg, the sole historian of the United States on the New College faculty, despite faculty recommendations that he be rehired. Wallenberg had been offered reappointment in April, but on May 12 he was informed that his contract would not be renewed. He received no explanation other than that President Corcoran had declined to sign the renewal. There had been no communication between Corcoran and Professor Wallenberg during this period, nor had anyone else at New College indicated that his performance as a visiting assistant professor had been in any way unsatisfactory. In March, however, Wallenberg and a colleague had written an opinion essay in *Teen Vogue* criticizing the board's takeover of the campus.<sup>20</sup> In that essay the two scholars called comments made to a student by trustee Rufo "demeaning and rude." Rufo responded on Twitter by posting screenshots of the two professors' résumés, describing their contents as "pure left-wing Mad Libs" and adding, "Thankfully, both are visiting professors." In April, Wallenberg had helped bring Marvin Dunn, professor emeritus at Florida International University and a plaintiff in a lawsuit challenging Governor DeSantis's "Stop WOKE Act" (see below), to campus and had introduced Dunn at the event. In the wake of these activities, Rufo celebrated Wallenberg's nonrenewal

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Whereas Trustees Rufo, Bauerlein, and Speir have not to our knowledge disclosed financial conflicts of interests related to school partnerships, other governing boards, or income from subscriptions to their writings or test products;

Whereas Trustee Rufo refuses to cooperate with public records (aka "sunshine law") requests related to his work as a trustee of New College of Florida, in contradiction to the duty of obedience;

Whereas the majority of Trustees present voted "no" on recent tenure cases without offering explanation or evidence of having read the tenure files or understanding tenure processes at the college as is their duty;

Whereas Trustee Bauerlein publicly gave a rationale for his vote on tenure cases that does not derive from New College policies as stated in the Faculty Handbook;

Whereas Trustees Rufo and Speir regularly make disparaging and unprofessional comments on social media and in news media about New College students, staff, and community members, communicating a lack of fiduciary care, harming and diminishing the college's standing;

Whereas many of the Trustees actively ignore members of the public who give comment at Board of Trustees meeting, communicating a lack of respect and care to the public including taxpayers;

Whereas Trustees have monetary responsibilities to assist the college to secure funds both by donating themselves and/or by encouraging others to do the same, which is not currently the case to our knowledge;

Be it resolved that the New College Board of Trustees is censured by the faculty for failing to uphold College policies and more broadly failing in or explicitly disregarding their fiduciary duties to the College.

<sup>20</sup> Debarti Biswas and Erik Wallenberg, "New College of Florida: The Conservative Christian Takeover by Ron DeSantis, Chris Rufo," *Teen Vogue*, March 6, 2023.

on Twitter, declaring, “It is a privilege, not a right, to be employed by a taxpayer-funded university.” He added, “New College will no longer be a jobs program for middling left-wing intellectuals.”<sup>21</sup>

That a college trustee would even be aware of such a relatively minor employment decision, much less comment provocatively on it, is, to say the least, highly unusual. In response, Jeremy Young of the writers’ organization PEN America called the administration’s action an “effective firing” and “an appalling act of political retaliation and an affront to the principle of academic freedom.”<sup>22</sup>

On July 26, James Grossman, executive director of the American Historical Association, wrote President Corcoran:

Indiscreet tweets by a member of the college’s board of trustees raise concerns about the possibility of inappropriate governing board interference and a violation of academic freedom. . . . Did this trustee speak with you about Wallenberg’s political views or statements outside the classroom? Was your ensuing refusal to sign the renewal forms, without any comment about Dr. Wallenberg’s qualifications, related to this warning?

Your trustee suggests that your decision was, indeed, influenced by such considerations.

On June 6, Rufo stated what he clearly considers to be institutional policy: “New College will no longer be a jobs program for middling, left-wing intellectuals.”<sup>23</sup>

The AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure* state, “All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*.” Article 10 of those *Regulations* provides, “If a faculty member on probationary or other non-tenured appointment alleges that a

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<sup>21</sup> Josh Moody, “New College of Florida Denies Contract to DeSantis Critic,” *Inside Higher Ed*, June 6, 2023.

<sup>22</sup> The statement continued, “It cannot be overstated how inappropriate and frightening it is to make adjunct or visiting professors’ job security contingent upon their political speech or their fealty to individual trustees. This authoritarian decision marks New College as a hostile environment for academic freedom, threatens to disrupt US history education for New College students, and will cast a broad chill over every member of the faculty, both at New College and across the country” (“Decision Not to Renew Lone US History Professor’s Contract at New College of Florida—in Effect, Firing Him—Is “An Affront to Academic Freedom,” Says PEN America,” June 6, 2023, <https://pen.org/press-release/decision-not-to-renew-lone-us-history-professors-contract-at-new-college-of-florida-in-effect-firing-him-is-an-affront-to-academic-freedom-says-pen-ameri/>).

<sup>23</sup> The AHA statement went on, “If Professor Wallenberg’s record suggests that his work was ‘middling,’ we ask that a member of the college administration provide him with specific examples of his teaching or scholarship that does not meet the college’s standards. If his work is not ‘middling,’ then that leaves your trustee clearly stating that ‘left-wing intellectuals’ have no place on the faculty at New College. Surely you don’t object to faculty members being ‘intellectuals.’ So, the only remaining blot on Dr. Wallenberg’s record, according to a member of the college’s governing board, is his political affiliation or perspective” (“AHA Sends Letter to New College of Florida Expressing Concern over History Professor’s Nonrenewal (July 2023),” [https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-to-new-college-of-florida-expressing-concern-over-history-professors-nonrenewal-\[july-2023\]](https://www.historians.org/news-and-advocacy/aha-advocacy/aha-letter-to-new-college-of-florida-expressing-concern-over-history-professors-nonrenewal-[july-2023])).

decision against reappointment was based significantly on considerations that violate academic freedom” the decision should be subject to review by a duly constituted faculty committee. Further, “if the faculty member succeeds in establishing a prima facie case, it is incumbent upon those who made the decision against reappointment to come forward with evidence in support of their decision.” Absent such a review and such evidence, the presumption that Wallenberg was not renewed owing to inappropriate political interference and in violation of his academic freedom stands un rebutted.<sup>24</sup>

While Wallenberg’s case was the most flagrant example, others who, like him, did not enjoy the protections of tenure were also in danger. The committee was told by several interviewees that anyone with a temporary appointment lives in a de facto state of “limbo.” Helene Gold had been a faculty librarian for over a quarter century. She came to New College in 2018 and in 2021 served briefly as codean of the library. She was then appointed associate dean, which required her to give up her faculty status and, as an administrator, become an at-will employee. Nonetheless, she was among those speaking critically of the new regime, which brought her into conflict with her dean. On May 1, she was informed that she would be “terminated with no cause, with proper notice provided,” an action, she told the special committee, that she understood was intended as much to intimidate others as to silence her.

As the academic year came to a close, the chaos and uncertainty of the first months under the new board gave way to widespread recognition among New College faculty, students, and alums that their cherished institution—what former president Bernie Machen of the University of Florida referred to as a “little jewel in the state of Florida”—was no more.<sup>25</sup> What remained uncertain was what would replace it. The trustees and President Corcoran had repeatedly declared that the college would adopt a new “classical” liberal arts curriculum modeled after that of conservative Hillsdale College, but there has been little in the way of progress in that direction.<sup>26</sup> A May 8 press release from President Corcoran announced that New College in the fall would begin accepting a classical and Christian exam alternative to the SAT called the Classic Learning Test (CLT), pending a vote of the board of governors. Two of the recently appointed New College trustees are connected to the CLT: Bauerlein participated in developing

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<sup>24</sup> AAUP, “Recommended Institutional Regulations on Academic Freedom and Tenure,” <https://www.aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure>.

<sup>25</sup> Interview with the special committee.

<sup>26</sup> In a September op-ed piece, President Corcoran boasted that by fall 2024 all first-year students will be required to take a course on Homer’s *Odyssey*. A pilot version of the class is currently being offered, he reported (Richard Corcoran, “Like the ‘Odyssey,’ New College of Florida is Embracing an Exciting Journey,” *Sarasota Herald-Tribune*, September 25, 2023). Faculty with whom the committee spoke, however, say that very few specifics have been revealed about the proposed new “classical” curriculum and that to their knowledge faculty involvement has been minimal.

the test, and Rufo currently serves on the test's board of academic advisers. On September 8, the board of governors voted 13-1 to accept the test on applications to its twelve campuses, with only faculty representative Amanda Phalin dissenting.<sup>27</sup>

At the same time, New College has moved to recruit a large number of student athletes, although until now the school had had no intercollegiate athletics program.<sup>28</sup> Spending lavishly on new "presidential honors scholarships," New College recruited its largest ever first-year class.<sup>29</sup> As of July, New College had 328 incoming students, of whom 115 were athletes.<sup>30</sup> Among that group were seventy freshman baseball players supported by scholarships. By comparison, the University of Florida, an NCAA Division I university with a student body ninety times larger than that of New College, has just thirty-seven baseball players on scholarships. New College also does not yet have a baseball field, or for that matter any other intercollegiate athletic facility, although the parking lot, this committee was told, now

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<sup>27</sup> Liam Knox, "Florida System Adopts the Classic Learning Test," *Inside Higher Ed*, September 11, 2023. For more on the CLT, see Alaina Demopoulos, "'This is Not a Trump-y, Conservative Education,' Florida's Controversial New SAT Alternative," *Guardian*, September 26, 2023.

<sup>28</sup> Steven Walker, "New College of Florida Nets Record Number of New Students, but at Academic Cost," *Sarasota Herald-Tribune*, July 27, 2023. In early October, the National Association of Intercollegiate Athletics (NAIA) accepted New College as a member effective July 1, 2024, after what the association claimed was "a thorough vetting process." Critics pointed out, however, that the school had not met some of the NAIA's basic requirements. Its application had listed an administrator as the "faculty" athletic liaison.

The NAIA is led by David Armstrong, President of St. Thomas University, a Catholic institution founded by Cuban exiles in Miami Gardens, Florida. His inaugural speech in that post has been described as "politicized" and critical of Democrats. In March 2022, faculty at St. Thomas's law school protested a decision by Armstrong to deny support to a gay law student organization seeking to attend Miami's Pride Parade. "The President of the University forbade the Lambda organization from attending the Pride Parade if they exhibited any affiliation with STU. Finally, the President stated that if any STU faculty or staff member appeared in the Pride Parade in an STU shirt, he or she would be immediately fired. These actions and statements violate the University Student Handbook, which prohibits discrimination on the basis of sexual orientation," the professors charged ("Controversy at South Florida School Pits LGBTQ Group against Administration," <https://www.nbcmiami.com/news/local/controversy-at-south-florida-school-pits-lgbtq-group-against-administration/2723967/>).

<sup>29</sup> It was reported that President Corcoran had offered \$5,000 bonuses to staff members who met an enrollment target. Although the college denied that the payments were bonuses, a spokesperson told the *Sarasota Herald-Tribune*, "High achievement deserves a reward, and increased pay will be implemented to recognize the diligent work of the admissions team." Institutions receiving federal financial aid are legally barred from offering "any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments." Staff members also reported additional questionable methods, including in promotional brochures photos of new buildings at the neighboring University of South Florida Sarasota campus as if they were New College buildings (Josh Moody, "New College of Florida Recruiting Tactic Raises Questions," *Inside Higher Ed*, July 31, 2023).

<sup>30</sup> The college also had "by far" the lowest retention rate of first-year students in its history, at 64.9 percent, according to Provost Thiessen. Between fall 2022 and the start of the 2023–24 academic year, Thiessen said 186 of New College's 691 students left the school, about 27 percent, compared to 13 percent and 14 percent, respectively, the preceding two years. Because of the large first-year class, however, New College's total enrollment for fall 2023 was 733 students, 41 more than the previous year (Steven Walker, "New College of Florida Dropout Rate Spikes, Retention Rate Falls amid DeSantis' Transition," *Sarasota Herald-Tribune*, October 13, 2023).

has batting cages. As faculty members were quick to point out, moreover, these student-athletes tend to have little interest in either New College’s existing liberal arts programs or any proposed “classical” curriculum. In August, President Corcoran sent a memorandum to faculty members, proposing new majors in finance, communications, and sports psychology, “which will appeal to many of our newly admitted athletes.” But, as Amy Reid, a New College professor of French who replaced Professor Lepinski as faculty chair, commented in the *New York Times*, it is not evident “how sports psychology, finance, and communications fit with a classical liberal arts model.”<sup>31</sup>

While the content of the proposed new curriculum remains uncertain, it is increasingly clear that some subjects can no longer be taught at New College. On August 10, the board voted to terminate the gender studies program, prompting Nicholas Clarkson, the sole tenure-track faculty member in the program (faculty members from other departments had also participated), to resign. In a two-page resignation letter, he condemned the move as “a reactionary attempt to prevent cultural shifts that scare you.”<sup>32</sup>

In defense of the program’s elimination, Trustee Rufo wrote, Despite recent shibboleths about “academic freedom,” state legislators and boards of trustees have the right—the duty—to redirect, curtail, or close down academic programs in public universities that do not align with the mandate of the taxpayers who generously support them. When public universities violate their part of this social contract, the people, through their elected legislators and appointed representatives, have every right to insist on reforms. Yes, public university professors, such as those at New College, have a First Amendment right to

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<sup>31</sup> Dave Zirin, “How DeSantis Is Using Sports to Hijack a Florida College,” *The Nation*, October 3, 2023; Michelle Goldberg, “At a College Targeted by DeSantis, Gender Studies Is Out, Jocks Are In,” *New York Times*, August 14, 2023. The committee spoke at length with Professor Reid, whose month-by-month experience of the takeover was recorded in Lane Gregory, “A Semester inside the Siege: New College Professor Is Trapped in the Takeover,” *Tampa Bay Times*, August 16, 2023.

<sup>32</sup> Clarkson wrote further, “I am reluctant to leave my colleagues and students behind, but you’ve already destroyed the New College I loved, and I won’t work in an environment characterized by censorship, refusal of accountability, blatant disregard for students’ well-being, and consistent denigration of both my work and my personhood.” In a parody of DeSantis’s antiwoke mantra, Clarkson concluded, “Florida is the state where learning goes to die” (Johanna Alonso, “Resignations and Hotels: Chaos Continues at New College,” *Inside Higher Ed*, August 18, 2023; Contreras, “Where Learning Goes to Die”). The termination of gender studies followed a series of actions during the summer that many faculty and students perceived as hostile to women, gays, and transgender individuals, significant groups in the existing New College student body. These included the closure of the pride dormitory, the removal of signs that were considered “inappropriate for students to see,” a ban on all-gender bathrooms, and a ban on chalking on campus sidewalks.

promote gender pseudoscience—but they are not entitled to an unlimited state subsidy for that speech.<sup>33</sup>

Rufo’s statement exhibits (among other things) disdain for long-held principles and practices of “joint effort” in the management of American institutions of higher education. The 1966 *Statement on Government of Colleges and Universities*, jointly formulated by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges, declares that “the general educational policy, i.e., the objectives of an institution and the nature, range, and pace of its efforts, is shaped by the institutional charter or by law, by tradition and historical development, by the present needs of the community of the institution, and by the professional aspirations and standards of those directly involved in its work.” With regard to governing boards specifically, it continues, “The governing board has a special obligation to ensure that the history of the college or university shall serve as a prelude and inspiration to the future. The board helps relate the institution to its chief community. . . The board should undertake appropriate self-limitation.”

In addition, with regard to curricular decisions, the *Statement* emphasizes, “The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” It continues, “Scholars in a particular field or activity have the chief competence for judging the work of their colleagues; in such competence it is implicit that responsibility exists for both adverse and favorable judgments.” Lastly, in “matters where the faculty has primary responsibility,” the *Statement* affirms that the governing board and the president should “concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail.”<sup>34</sup>

In light of these strictures, it is clear that the New College board grossly exceeded its authority in unilaterally terminating the gender studies program without any faculty participation. While pseudoscience should have no place in a college curriculum, Rufo lacks the qualifications necessary to classify the entire discipline of gender studies, or any other discipline, as such.

For the present, however, New College has been struggling to provide any curriculum at all. Students who checked the menu of course offerings in August often found that classes they needed were no longer being offered, many having been canceled at the last minute. “The division chairs have made a heroic effort this summer to fill in the gaps in our academic programs,” faculty chair Reid said.

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<sup>33</sup> Christopher F. Rufo, “The Arc of Reform: New College of Florida Votes to Abolish Its Gender Studies Program,” August 10, 2023, <https://christopherrufo.com/p/the-arc-of-reform>.

<sup>34</sup> AAUP, *Statement on Government of Colleges and Universities*, 1940, <https://www.aaup.org/report/statement-government-colleges-and-universities>.

She told the committee that about twenty people had been hired through mostly normal processes but that in several instances the search committee’s first choice was rejected by the president. In one case, a candidate’s decision to include a “diversity statement” in her application materials led to rejection. “Sadly, [the committees’] efforts are being hampered by an ideological litmus test imposed by the administration,” Reid added.”<sup>35</sup>

A faculty member and an administrator informed the special committee that search committees had already been engaging in self-censorship, knowing that certain candidates would never be acceptable to the administration. Thus lists of finalists being forwarded to the administration already reflected a method of selection that was not typical for New College, nor did they necessarily reflect the names of people who best suited the position description. There was thus an “anticipatorial obedience” at work, as one of our interviewees suggested.

To be fair, search committees see this kind of self-censorship and anticipatorial obedience as the only way to exert a limited amount of control over the searches. But, as an administrator at New College reported, “In reality, committees are irrelevant; faculty will is irrelevant. Trustees are trolling for candidates on Twitter and most of those candidates are wildly unqualified.” In the end, it seems, the trustees and President Corcoran are getting what they want in candidates being hired—either through actively selecting candidates and inserting them in the group of finalists to be considered, or by rejecting others on the list of finalists because of their online presence or DEI work.

By mid-August some forty-one faculty members at New College had departed, a bit more than 40 percent of the faculty. Some resigned, some retired, others took unpaid leave. Only a handful have been replaced. The committee spoke with many of these departing faculty members as well as with some who remain but are looking for positions elsewhere. Several have found such positions; others are leaving academia entirely. While the exodus is most extensive at New College, it extends across the state, as will be discussed further on in this report.<sup>36</sup>

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<sup>35</sup> Liz Leininger, a biology and neuroscience professor and outspoken critic of the takeover who has left New College for another institution, told a reporter, “The number of choices students have this year is drastically reduced. If one of those classes conflicts with another class they have to take that is completely required, they’re going to have trouble staying on track.” Leininger said she received initial permission to teach neurobiology at New College over videoconference as a part-time adjunct, but was later informed she would not be permitted to teach the class, most likely, she believes, in response to her activism. At least eleven students had already registered for the course (Johanna Alonso, “Chaos Reigns at New College of Florida as Fall Semester Nears,” *Inside Higher Ed*, August 16, 2023).

<sup>36</sup> At the same time, the noninstructional staff has seen considerable turnover. According to a report in *Inside Higher Ed*, between February and September, seventy-seven employees departed New College—six involuntarily—and eighty-seven new full-time and thirty-one part-time workers were hired. “A lot of these hires don’t seem like they have any particular background in higher education,” one former employee said (Josh Moody, “The



Several recent administrative hires are politically connected, a pattern of patronage repeated elsewhere in the state's higher education system (see the following sections of the report). Kevin Hoeft, the new vice president of enrollment management, has no experience in that area. Instead, he served under Corcoran when the president was education commissioner, playing a role in the state's decision to ban an Advanced Placement course in African American studies. Critics have raised concerns about his wife's involvement in Moms for Liberty, a right-wing "parents' rights" group that has driven book bans and censorship of topics related to race and LGBTQ+ issues. Not coincidentally, Bridget Ziegler, one of the cofounders of Moms for Liberty and chair of the Sarasota school board, was appointed to the presidential search committee, adding further weight to the idea that a small group of largely inexperienced and underqualified people and their cronies and friends are now running the institution.<sup>37</sup>

For example, David Rancourt, the new dean of student affairs, served as Florida's director of elections and as deputy secretary of state and has been involved in Republican politics both as a lobbyist and a former aide for various GOP officials. He has no higher education or student services experience. Sydney Gruters, executive director of the New College of Florida Foundation, also lacks higher education experience, but she is a former GOP political aide and is married to state senator Joe Gruters, a local Republican. Alice Rothbauer, another foundation executive, is a former regional field director for the Republican Party of Florida who spent twenty-five years as an independent beauty director for Mary Kay Cosmetics.<sup>38</sup>

Athletic director Mariano Jimenez Jr. was recruited from the same position at Inspiration Academy, the private K–12 school owned by the DeSantis-appointed (but subsequently unconfirmed) trustee Speir. Jimenez is but one of several appointees who are alums of Christian colleges known for their right-wing politics, such as Liberty and Bob Jones Universities. "The athletics program has only hired coaches from Christian schools," wrote the author of a complaint against New College filed with

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Administrative Overhaul of New College of Florida," *Inside Higher Ed*, September 19, 2023, <https://www.insidehighered.com/news/governance/executive-leadership/2023/09/19/new-college-florida-looks-outside-academe-fill-jobs>).

<sup>37</sup> Ziegler is also the wife of the recently appointed chair of Florida's Republican Party, Christian Ziegler. As chair of the Sarasota School Board, she suggested hiring Vermillion Education as consultants. The newly founded company lists, as its primary agent, a former civic education specialist at Hillsdale College, Jordan Adams, who was responsible for the 1776 curriculum at Hillsdale (Katie LaGrone, "What Is Vermillion Education and Why Florida School Boards Should Care," WFTS ABC Action News, March 24, 2023, last updated March 28, 2023, <https://www.abcactionnews.com/news/state/what-is-vermillion-education-and-why-florida-school-boards-should-care>).

<sup>38</sup> Josh Moody, "The Administrative Overhaul of New College of Florida," *Inside Higher Ed*, September 19, 2023, <https://www.insidehighered.com/news/governance/executive-leadership/2023/09/19/new-college-florida-looks-outside-academe-fill-jobs>.

the US Department of Education Office for Civil Rights (OCR), which also accused the college of disproportionately focusing its athletics recruiting on Christian schools.

That complaint was one of two filed against New College in August. It charged that the administration had demonstrated ongoing discrimination against “protected groups,” such as LGBTQ+ students, creating a hostile environment for those students. “The ultimate goal is for [marginalized] students . . . [to] be welcomed and to be able to get a good education because they are not being subjected to ridicule or exclusion or policies which disproportionately burden them and interfere with their ability to get an education,” said New College alumna and attorney Jennifer Granick, who was involved with filing the forty-page complaint. Documentation supporting the complaint’s allegations include Trustee Rufo’s social media posts in which he quoted New College students from news articles with laughing emojis and posts about how he pressed misdemeanor battery charges against Libby Harrity. Rufo asserted that Harrity, who was a student at the time but now attends Hampshire College, spat on his shoe during a May 15 campus protest on campus. Rufo dropped the charges only after Harrity agreed to transfer.<sup>39</sup> Rufo’s posts also claimed that identifying as nonbinary was “an entirely fake identity,” that nobody was nonbinary, and that the notion of a nonbinary gender identity was “weapons-grade pseudoscience.” The complaint cites the removal of gender-neutral bathroom signage on the campus where a significant number of students and faculty identify as transgender or nonbinary.<sup>40</sup> The complaint also charges that the termination of the Office of Outreach and Inclusive Excellence has impacted the religious freedom of Muslim students by, for example, eliminating the office’s provision of meals for Muslims during Ramadan.

A separate complaint filed two days later charges a pattern of discrimination against students with disabilities. The OCR opened an investigation into the disability complaint on September 9. Perhaps confusing the two complaints, Rufo responded by declaring in a social media post, “It’s time to abolish the Department of Education.” On his substack, he wrote, “We are ready for the fight. When Governor DeSantis appointed the new board of trustees, he told us: ‘If the media isn’t attacking you, you’re not doing your job.’ The same could be said of the Biden Administration.” On September 28, New College

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<sup>39</sup> Steven Walker, “Civil Rights Complaint Filed with U.S. Justice, Education against New College Board, Admin,” *Sarasota Herald-Tribune*, September 8. In an interview with the special committee, faculty chair Reid described Harrity, who had served as her teaching assistant, as “not a student I think of as a hothead.”

<sup>40</sup> “It is clear that the change of the bathroom signs on campus is an attack on the student body,” first-year student Ashton Start told the campus newspaper. “It provides a great example of how the new BOT members and the new President are choosing to pick fights with the students and trying to change New College,” (Nat Kornblum, “‘All Gender’ and ‘Gender Neutral’ Signage Removed on Academic Side of Campus,” *Catalyst*, May 9, 2023).

announced that it had reached a settlement with the OCR in the disability rights case. As of mid-October, the agency had not yet publicly revealed whether it is investigating the first complaint.<sup>41</sup>

Several faculty members who spoke with the committee feared that New College’s current direction was unsustainable. “Between making this space untenable for our LGBTQ community, between academic attacks, between bathroom bans, between housing issues for students, between censoring faculty teaching, between painting over beautiful murals, what’s left of New College?” one asked. At least one prominent statewide faculty leader ventured to predict that the college would no longer exist within a year or two. While that prediction may be exaggerated, it is sobering to note that a 119-page business plan presented by New College to the state board of governors’ strategic planning committee, which calls for increasing enrollment from roughly 800 to 1,200 students over five years, has been deemed “not financially viable” by University of Florida business professors who reviewed the plan at the request of the faculty member of the board. That plan highlights the impact of “\$50 million in new legislative appropriations funds” allocated in part to “rebuild from the neglect of prior administrations.” (Those prior administrations had repeatedly requested funding from the legislature, only to have their appeals ignored.) It may seem cynical, but the faculty leader who told the committee that the real goals of the New College takeover were but three—to reward Corcoran, provide a platform for Rufo, and fuel the culture war against the “woke”—may not have been all that far from the truth.<sup>42</sup>

## **II. Academic Governance in Florida Higher Education**

*In general, we have a state where cronyism, and pay to play, is strongly at work.*

—William Trapani, associate professor of communication, Florida Atlantic University<sup>43</sup>

### **A. The State University System of Florida**

The State University System of Florida comprises twelve public land-grant universities enrolling approximately 350,000 students. Before 1947, Florida had three universities, one for Black people, Florida Agricultural and Mechanical College, established in 1887 as the State Normal College for Colored

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<sup>41</sup> Steven Walker, “U.S. Education Department Launches Investigation into New College of Florida Board, Admin,” *Sarasota Herald-Tribune*, September 11, 2023; Walker, “New College: What We Know about the Federal Civil Rights Investigation,” *Sarasota Herald-Tribune*, September 13, 2023; Walker, “New College of Florida Settles with U.S. Department of Education in Civil Rights Probe,” *Sarasota Herald-Tribune*, September 28, 2023.

<sup>42</sup> Ryan Dailey, “New College of Florida’s Transformation Plan Isn’t Financially Viable, UF Analysis Says,” *Sarasota Herald-Tribune*, October 2, 2023.

<sup>43</sup> Quoted in Josh Moody, “Who Wants to Lead a Presidential Search in Florida?,” *Inside Higher Ed*, September 11, 2023.

Students; one for white women, Florida State College for Women; and one for white men, the University of Florida. When the influx of World War II veterans supported by the G.I. Bill overloaded the University of Florida, Florida State College for Women became Florida State University and began admitting white men. Of the remaining nine institutions, only one was established before 1960, the University of South Florida (1956). In 1961, Florida Atlantic University was established, followed by the University of West Florida and the University of Central Florida (1963), Florida International University (1965), the University of North Florida (1969), Florida Gulf Coast University (1991), and Florida Polytechnic University (2012). As previously noted, New College joined the system in 1975 and became independent in 2001.<sup>44</sup>

The State University System is overseen by a seventeen-member board of governors, fourteen of whom are appointed by the state's governor. The remaining members include the chair of the Advisory Council of Faculty Senates (ACFS), the commissioner of education, and the chair of the Florida Student Association. The current board of governors is chaired by banker Brian Lamb, who has served in that capacity since 2019.<sup>45</sup> The ACFS, according to its constitution, "represents the faculty senates of the state university system institutions in advising the Chancellor of the State University System, the Board of Governors, the Florida State Board of Education, the state Legislature, the Governor and other officials and organizations involved in the establishment of policies, administration, or funding of public higher education in the State of Florida." The ACFS is chaired by Amanda J. Phalin, instructional associate professor at the University of Florida in the Warrington College of Business. The commissioner of

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<sup>44</sup> This committee mainly focused on the state's university system, with some attention to developments in the extensive Florida College System. That system, until 2009 known as the Florida Community College System, consists of twenty-eight public community colleges and state colleges. They are, in chronological order of their founding, St. Petersburg College (1927); Palm Beach State College (1933); Chipola Junior College and Pensacola Junior College (1947–48); Gulf Coast Community College, Central Florida Community College, Daytona Beach Community College, Manatee Junior College, North Florida Junior College, and St. Johns River Community College (all 1957–58); Brevard Community College, Broward Community College, Miami-Dade Community College, and Indian River Community College (1960); Edison Community College, Lake City Community College, and Lake-Sumter Junior College (1962); Okaloosa-Walton Community College (1964); Polk Community College (1965); Florida Keys Community College, Florida Community College at Jacksonville, Santa Fe Community College, Seminole Community College, and South Florida Community College (1966); Valencia Community College and Tallahassee Community College (1967); Hillsborough Community College (1968); and Pasco-Hernando Community College (1972). The state colleges are governed by local boards of trustees that are coordinated under the jurisdiction of the Florida Board of Education (also known as the State Board of Education). The system chancellor reports to the commissioner of education, who serves as the chief executive officer of Florida's public education system. The Florida College System chancellor at the Florida Department of Education, since 2019, is Kathy Hebda.

<sup>45</sup> Brian Lamb previously served as J. P. Morgan's global head of diversity, equity, and inclusion and in that role established DEI "Centers of Excellence."

education since 2022 is Manny Diaz Jr., who previously served as a Republican member of the Florida Senate from 2018 to 2022.

The chancellor of the state university system is Ray Rodrigues, who was appointed by DeSantis in summer 2022 and unanimously approved by the board of governors at its fall meeting. A key Republican legislative ally of the governor, Rodrigues formerly served as a Florida state senator and as a four-term representative in the Florida House of Representatives.

Each state university in the system is administered by its own sixteen-member board of trustees. Six members of each board are appointed by Florida's governor, and five are appointed by the board of governors. In addition, the chair of the faculty and the president of the student body serve on each board.

While this complex governance system, with its multiple governing boards, may have been designed to prevent the accumulation of excessive power in the hands of a centralized bureaucracy, tension between the authority granted to individual boards of trustees and the statewide board of governors has been a characteristic of the system for some time, persisting through several reorganizations. At times, the local boards have pushed back against centralizing and "one size fits all" approaches coming from the board of governors and the state's political leadership. That tension was not counterproductive, however, especially because past governors of both parties tended to make appointments, especially to the individual boards of trustees, of candidates with higher education experience and relied less on political or ideological criteria.

That has changed under Governor DeSantis and his predecessor, Rick Scott, now a US senator, according to many whom the committee interviewed. It is not simply that the entire board of governors (excluding the faculty and student representatives) and the great majority of trustees are now Republicans. What is most striking is that so many appointees are former political officeholders and professional political operatives. The board's increasing tendency has been to follow the lead of the governor and his allies in the legislative supermajority. As one veteran faculty member at the University of Florida told the committee, previous board members, regardless of party, understood their role to be ensuring that the universities they led were thriving. Members of the current group, he continued, are concerned principally with their relationships with the governor. At the same time, recent legislation has expanded the power of the board of governors and, to a lesser extent, of local boards of trustees to dictate policies to campus administrations and faculties.

In this environment, as University of Central Florida history professor Robert Cassanello told the committee, "gaining compliance is seen as leadership."

## B. Presidential Appointments

On March 16, 2022, Governor DeSantis signed Senate Bill 520 into law.<sup>46</sup> The act, which had failed to win legislative approval on eight previous votes, “makes confidential and exempt from public-disclosure requirements any personal identifying information of an applicant for the position of president of a state university or Florida College System (FCS) institution held by a state university or an FCS institution.” It creates a Florida sunshine law exemption for personal identifying information of candidates for state university presidencies. That blackout extends to faculty members and students. Once a board of trustees has selected three finalists, its candidate list will be made available for a twenty-one-day public comment period. Previously, under Florida’s open-records laws, the names of applicants had been available to the public throughout the search process. In opting for closed searches, Florida joined Wisconsin and Tennessee, which passed similar measures in 2015 and 2018, respectively. Opponents raised concerns that the law would enable the hiring of political insiders.<sup>47</sup>

Those concerns have proven justified. Clearly the appointment of President Corcoran at New College was a *fait accompli* from the moment the new DeSantis trustees were sworn in. While the search that led to the hiring of former Nebraska Republican senator Ben Sasse to lead the University of Florida was conducted, we were told, “by the book” and the search committee recommended him unanimously, given the secrecy surrounding the process it is hardly surprising that the appointment of a conservative politician with little academic experience raised eyebrows. In Sasse’s previous position he was accountable to voters, but as UF president, faculty member Sharon Wright Austin pointed out, he reports ultimately to DeSantis. “The governor does not like criticism or anyone to challenge him,” she said. “University presidents are not supposed to be puppets, but this is Florida, and it’s a new time for academia in our state. And if you’re President Sasse and you don’t go along to get along, pretty soon you are going to have to get out.”<sup>48</sup>

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<sup>46</sup> Florida Senate, “CS/SB 520: Public Records and Public Meetings,” March 16, 2022, <https://www.flsenate.gov/Session/Bill/2022/520>.

<sup>47</sup> Emma Whitford, “Florida the Latest State to Close Presidential Searches,” *Inside Higher Ed*, March 7, 2022. For the official summary of SB 520, see <https://www.flsenate.gov/Committees/BillSummaries/2022/html/2817>.

<sup>48</sup> Quoted in Michael Sokolove, “How Ben Sasse Became a Combatant in Florida’s Education Wars,” *New York Times Magazine*, September 7, 2023. Multiple faculty members told us that, since his appointment, Sasse has been largely absent from campus and has had the most minimal interactions with faculty and students. While his predecessor had convened a representative campus committee to develop a plan for the future, Sasse has instead, through a no-bid process, hired McKinsey & Company, a global management consulting firm, on a \$4.7 million contract to help develop the university’s vision for the future (Garret Shanley, “UF Signs \$4.7 Million Contract with Global Consulting Firm,” *Alligator*, August 23, 2023).

At Florida Gulf Coast University, candidate forums for three presidential finalists had to be rescheduled because of Hurricane Ian. The board of governors then asked the university's trustees to delay their selection, which was to be made prior to the governors' meeting, using the hurricane as justification. Two of the three finalists then withdrew. One finalist told *Inside Higher Ed* that the search failed not because of the timing but because of political interference. After the search was restarted, Aysegul Timur, an FGCU vice president, was selected by just one vote over Henry Mack III, a former chancellor of the Florida Department of Education and an ally of Governor DeSantis.<sup>49</sup>

A presidential search at South Florida State College failed in May but was quickly restarted after jettisoning a previous requirement that candidates possess an advanced degree. The board then hired Fred Hawkins, a Republican legislator, DeSantis ally, and former rodeo cowboy, who has a bachelor's degree and in 2020 was arrested and charged with impersonating an officer.<sup>50</sup> Hawkins had cosponsored the bill that stripped the Walt Disney Company of its self-governing power and transferred oversight to a DeSantis-appointed board. On May 10, 2023, Representative Hawkins had announced on Twitter that he was "looking forward to becoming the next President of South Florida State College" even though his interview for the position was scheduled for May 31 and the final selection meeting for June 7. Trustee Louis Kirschner later told the *Tampa Bay Times*, "The governor doesn't appoint all Republican trustees and expect us to select a Democrat."<sup>51</sup>

The most controversial search came at Florida Atlantic University, where, it would appear, the board of trustees has to date resisted political pressure. Out of sixty-three applicants the board selected three finalists.<sup>52</sup> Not among them was Randy Fine, a member of the Florida House of Representatives. One of Florida's most polarizing politicians, Fine once threatened to shut down the University of Central

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<sup>49</sup> Moody, "Who Wants to Lead a Presidential Search in Florida?" Mack was later selected to be president of Broward College, a week after the abrupt and unexplained departure of former president Gregory Haile. But just hours after his appointment, Mack resigned the position, citing "the disruption to my family." According to the school, however, the issue was compensation. Mack had reportedly demanded a salary of \$400,000, but the trustees offered \$287,000 (Josh Moody, "Presidential Pick Out at Broward College," *Inside Higher Ed*, October 2, 2023).

<sup>50</sup> The felony charge was subsequently dropped. See Gary White, "Hawkins Campaign: Felony Charge Dropped against Fla. House Candidate Accused of Impersonating Deputy," *Ledger*, October 13, 2020, <https://www.theledger.com/story/news/politics/elections/2020/10/13/campaign-florida-house-hopeful-fred-hawkins-has-felony-charge-dropped/3640917001/>.

<sup>51</sup> Susan H. Greenberg, "After Failed Presidential Search, South Florida State Names New Finalist," *Inside Higher Ed*, May 12, 2023, <https://www.insidehighered.com/news/quick-takes/2023/05/12/after-failed-presidential-search-south-florida-state-names-new-finalist>.

<sup>52</sup> They were Vice-Admiral Sean Buck, who has headed the US Naval Academy since 2019; Jose Sartarelli, chancellor of the University of North Carolina at Wilmington from 2015 to 2022; and Michael Hartline, dean of the College of Business at Florida State University.

Florida and referred to a school board member as “a whore.” Nonetheless, he had publicly sought the FAU position, claiming that the governor asked him to apply. For his part, the governor told reporters that Fine would be “a good candidate.” There was widespread speculation that DeSantis was doing more in private.

The search was suspended immediately. State University System chancellor Rodrigues cited “concerning information” and “anomalies” in the process. He claimed that a survey conducted by the firm hired by the university to assist in the search was “inappropriate and potentially illegal.” Rodrigues alleged that one candidate for the position—reported to be Fine—had claimed he had been asked about his sexuality and gender identity. Soon the board’s inspector general and then the state attorney general launched investigations.

To its credit, the FAU board has continued to defend the search, which has stalled. Board chair Brad Levine called the three finalists “exceptionally well qualified” and denied that sexual orientation or gender identity had played any role in the process. He said the board was unaware that a survey had been sent to applicants by the search firm, which stood by its survey as standard practice. An executive at another firm told *Inside Higher Ed* that the concerns raised by Rodrigues “are basically a red herring.”<sup>53</sup>

### C. Accreditation

Charging that accrediting agencies have an “inordinate amount of power,” Governor DeSantis signed a bill, SB 7044, on April 19, 2022, that requires public colleges and universities in the state to change accreditors at the end of each accreditation cycle, a process that can take as long as ten years.<sup>54</sup> (The same legislation also mandated a post-tenure review process for professors, discussed below.) “The role that these accreditation agencies play, I don’t even know where they come from,” DeSantis charged. “I

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<sup>53</sup> “Rodrigues is grasping at any meager, partisan straw he can find in order to gin up false cause to undermine a search process that until now has been both fair and collaborative,” Andrew Gothard, president of the United Faculty of Florida and an FAU professor, said. “It is clear the chancellor only jumps when the governor yanks his chain. Florida’s university system deserves better than this partisan sham of leadership” (Richard Luscombe, “Cries of Cronyism as DeSantis Bids to Place Rightwing Ally at Top University,” *Guardian*, July 21, 2023). See also Moody, “Who Wants to Lead a Presidential Search in Florida?”; Josh Moody, “Florida AG Asked to Weigh In on Presidential Search,” *Inside Higher Ed*, September 11, 2023; and Jason Garcia, “Report: Ron DeSantis Personally Intervened in a Major University’s Presidential Search,” *Seeking Rents* (substack), August 22, 2023, <https://jasongarcia.substack.com/p/report-ron-desantis-personally-intervened>.

<sup>54</sup> Florida Senate, “SB 7044: Postsecondary Education,” April 19, 2022, <https://www.flsenate.gov/Session/Bill/2022/7044>.



mean, they . . . are effectively self-anointed. They have an inordinate amount of power to shape what is going on at these universities.”<sup>55</sup>

The AAUP and many faculty members have over the years raised serious concerns about how accrediting agencies have failed to protect faculty rights and educational quality. In particular, accreditors have almost entirely ignored the catastrophic expansion of contingent faculty employment.<sup>56</sup> However, rotating accreditors will not simply fail to address these problems but will worsen them by effectively shielding boards and administrations from professional regulation. “Accreditation has become a target in red states and by right-wing politicians because they’ve learned that robust and well-regarded accreditation presents a barrier to their attempts to inject partisan politics into higher education,” AAUP president Irene Mulvey has stated. “They are dragging accreditors into this to dismantle that barrier.”<sup>57</sup>

When SB 7044 passed, the US Department of Education warned the state about possible conflict with federal law. SB 7044 was then amended so that institutions must change accrediting agencies only once in ten years and then no more. Nonetheless, the department issued guidelines that require any institution seeking to change accreditors to show reasonable cause for the switch. Seven Florida institutions have filed requests to change accreditors. Two have been approved to do so—Florida Polytechnic University and the University of Central Florida. When they applied to transfer their accreditation from the Southern Association of Colleges and Schools to the Higher Learning Commission, the US Department of Education sent a series of questions and requested copies of their communications with both state officials and accreditors, apparently to the annoyance of the governor, as subsequent developments suggest.

In June, the DeSantis administration filed a lawsuit charging that Congress has “ceded unchecked power” to the private agencies, in violation of the US Constitution. The suit asks the court to block the Department of Education from enforcing accreditation-related provisions of the Higher Education Act. “We reject the idea that a totally unaccountable, unappointed, unelected accrediting agency can trump what the state of Florida is doing,” Governor DeSantis told a press conference.

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<sup>55</sup> Ryan Dailey, “Gov. DeSantis Signs Higher Education Reform Bill Dealing with Accreditation, Tenure,” News4Jax, April 19, 2022, <https://www.news4jax.com/news/florida/2022/04/19/gov-desantis-signs-higher-education-reform-bill-dealing-with-accreditation-tenure/>.

<sup>56</sup> “Looking the Other Way? Accreditation Standards and Part-Time Faculty,” <https://www.aaup.org/report/looking-other-way-accreditation-standards-and-part-time-faculty>.

<sup>57</sup> Irene Mulvey, “Public University Accreditation Is Latest Front in Right-Wing War on Education,” AAUP, August 29, 2023, <https://www.aaup.org/content/public-university-accreditation-latest-front-right-wing-war-education>.

“Accrediting agencies have the power to hold billions of federal education dollars hostage based on the formulation and application of substantive education standards that are immune from meaningful government supervision,” the suit charges. In response, the Department of Education attorneys asked for a dismissal.<sup>58</sup>

#### **D. The Hamilton Center**

An increasingly common phenomenon in US higher education is the proliferation of special interest, often donor-funded, centers. These too frequently are established without faculty consultation and oversight and sometimes promote discredited ideas. They stand outside existing departments and disciplines. In a number of states these centers have been initiated and funded by conservative legislatures, which seek to counter what they perceive as liberal domination of education. In Florida such a center emerged last year at the University of Florida under circumstances that raise questions about the process.

In January 2022, Adrian Lukis, a partner in a prominent lobbying firm and former chief of staff to Governor DeSantis, sent a proposal to the University of Florida administration for the creation of a Hamilton Center for Classical and Civic Education, apparently named after the founding father, which he stated would provide a “nonpartisan civic education” in American ideals, teach the great books of the Western canon, and improve the political and intellectual diversity of the faculty. Under the proposal, the center would offer its own courses and degree programs and hire faculty members whose appointments would reside entirely in the center. An external board of advisers would recommend initial faculty hires to the president and to the university’s board of trustees, who together would make final selections. “If Hamilton Center faculty were to be hired through existing departments, the result would be a replication of what already exists,” the document said. Lukis had been hired to advocate for the center’s creation by a nonprofit organization with virtually no public profile, the Council on Public University Reform.<sup>59</sup>

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<sup>58</sup> Katherine Knott, “Florida Lawsuit Challenges Constitutionality of Accreditation,” *Inside Higher Ed*, June 27, 2023; Knott, “Biden Administration Wants Fla. Accreditation Lawsuit Tossed,” *Inside Higher Ed*, September 19, 2023.

<sup>59</sup>The council, a Delaware nonprofit, was established in November 2021. As of early 2023 it had no website, virtually no information available about it online, and no working phone. Some information can be found about the person listed in a public document as the council’s representative, Josh Holdenried. He is a former associate director of coalition relations for the Heritage Foundation and the current executive director of Napa Legal, which advises Roman Catholic and other faith-based organizations on how to “avoid litigation, compliance-focused attacks, and unforced errors in the public square.” He also serves on the board of Speech First, which describes itself as a membership organization of people who are fed up with “toxic censorship culture on college campuses

Within six months a version of the proposed center had been established and had a director. Florida lawmakers allocated \$3 million to create it.<sup>60</sup> Law professor John Stinneford was appointed its director. He argued that a “renewed commitment to civil disagreement and debate in an intellectually diverse community of friends who will both support and challenge one another” was needed “now more than ever.” Faculty members who spoke to the committee, however, all expressed concern that “no one knows where this came from” and “no one asked for it,” even as they acknowledged that the center so far seems to have complied with university policies and procedures, if at an accelerated pace. It remains unclear whether the proposed procedure for faculty hiring will be adopted. Faculty members have complained not only that the new center’s proposed programs appear to duplicate existing programs but also that initial hiring of center staff has been at best opaque and at worst ideologically biased.

A similar proposal has been put forward by New College. In July, the New College board voted to request \$2 million from the legislature to establish a Freedom Institute aimed at combating “cancel culture.”<sup>61</sup>

As the late AAUP general secretary Mary Burgan wrote, “While special-interest centers in higher education can deliver tangible benefits to faculty and students, they can also distort priorities in curriculum and research, create imbalances in the overall budget, and force scholars to become involved in pleasing donors rather than pursuing their research and teaching. That is why such centers should always be discussed and monitored by the appropriate faculty governance bodies.”<sup>62</sup>

### **E. Complicity or Cowardice?**

The Florida Atlantic board’s staunch defense of its presidential search process is sadly exceptional. Overwhelmingly, boards of trustees—and the administrators they appoint—seem more than willing to comply with the DeSantis administration’s agenda. In our preliminary report, we wrote,

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and who want to fight back.” Holdenried is currently pursuing a master’s degree at Hillsdale College. In Florida, the council paid a lobbying firm between \$60,000 and \$100,000 to lobby the state’s legislative branch and between \$20,000 and \$60,000 to lobby its executive branch in 2022 (Ana Ceballos, “There’s a \$3 Million Mystery behind University of Florida’s Brand New Academic Unit,” *Miami Herald*, July 13, 2022; Emma Pettit, “How a Center for Civic Education Became a Political Provocation,” *Chronicle of Higher Education*, February 22, 2023).

<sup>60</sup> When asked about the center, Gainesville Republican senator Keith Perry, who sponsored the legislation funding it, confessed, “I don’t know really much about that group at all. I don’t know who they are.” Ceballos, “There’s a \$3 Million Mystery behind University of Florida’s Brand New Academic Unit.”

<sup>61</sup> “New College Will Ask Florida for \$2M to Combat ‘Cancel Culture,’” *Tampa Bay Times*, July 7, 2023.

<sup>62</sup> Mary Burgan, “Faculty Governance and Special-Interest Centers,” *Academe*, November–December 2009. 15–19.

In every conversation that the committee has had with Florida faculty members—including those from multiple institutions and of varied political persuasions; on tenured, tenure-track, and contingent appointments; from an array of disciplines in the physical and natural sciences, law, business, social science, and humanities; and from the leadership of the UFF [United Faculty of Florida]—we heard repeated complaints not only about the silence of their campus and system administrators but also about administrators’ direct complicity in implementing policies that would severely restrict academic freedom and faculty and student rights more generally. It is perhaps understandable that administrators would be cautious in their conduct, fearful that their institutions might suffer devastating retaliatory budget cuts from a governor and legislature that have demonstrated repeatedly their willingness to act vindictively toward critics. That said, the approach of many of the administrators appears more cowardly than cautious. When *Inside Higher Ed* asked forty Florida public college and university presidents for comment on the state’s higher education legislation, none was willing to speak, even when offered anonymity.

We have heard nothing in the months since that might alter this conclusion.<sup>63</sup> Indeed, those with whom we have subsequently spoken were, if anything, even more disappointed by the failures of their campus administrators to defend their institutions and their faculties. One faculty member stated, “That none of the presidents of the other universities said what was happening at New College was unacceptable, that they didn’t stand up to it, is just awful. They just want to keep their heads down and think it won’t come for them.” Several used the word “craven” to describe their administration. One faculty member at Florida Atlantic noted despairingly, “We’ve become a machine of complicity.”

#### **F. AAUP Governance Standards**

Throughout higher education, administrators far too frequently imagine their role to be getting those below them—subordinate administrators and staff and faculty members—to comply with the policy preferences of those above them, a hierarchical and passive conception of leadership associated with a

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<sup>63</sup> In October seven former Florida public college and university presidents published an op-ed criticizing the legislative initiatives described in this report, which, they wrote, “erode academic freedom, prohibit instructors from accurately conveying history to their students and, ultimately, limit students’ access to the full range of information and ideas they need to become engaged citizens” (“We Seven Former Florida College Presidents Say Enough Is Enough,” *Tampa Bay Times*, October 18, 2023). It is telling that to date only *former* presidents have spoken out.

crude managerial mentality. But this is not the role that ethical and effective university governance demands.

With respect to the role of the governing board, the AAUP's *Statement on Government of Colleges and Universities* makes clear that "when ignorance or ill will threatens the institution or any part of it, the governing board must be available for support. In grave crises it will be expected to serve as a champion. Although the action to be taken by it will usually be on behalf of the president, the faculty, or the student body, the board should make clear that the protection it offers to an individual or a group is, in fact, a fundamental defense of the vested interests of society in the educational institution."

"It is the duty of the president," the *Statement* continues, "to see to it that the standards and procedures in operational use within the college or university conform to the policy established by the governing board and to the standards of sound academic practice. It is also incumbent on the president to ensure that faculty views, including dissenting views, are presented to the board in those areas and on those issues where responsibilities are shared." Increasingly, it would appear these standards are being ignored in Florida.

### **III. Academic Freedom**

*Scholars must be free to examine and test, they must also be free to explain and defend their results, and they must be free to do so as much before their students as before their colleagues or the public at large.*  
—AAUP, *Freedom in the Classroom*, 2007

#### **A. Public Testimony**

One of the earliest and most disturbing signs of trouble in Florida's higher education system was the attempt by the University of Florida administration in fall 2021 to bar faculty members from testifying as expert witnesses on behalf of plaintiffs seeking to block the implementation of SB 90, Florida's discriminatory voter-suppression law. The new law created obstacles to vote-by-mail, curtailed access to drop boxes, and criminalized "line warming" activities such as providing food or water to voters waiting outside polling stations under Florida's hot sun. The plaintiffs argued, among other claims, that the law disproportionately limited the ability of Black and Latinx voters to cast ballots.

Lawyers for the plaintiffs sought to hire three University of Florida political scientists as expert witnesses: Professors Daniel Smith, chair of the university's political science department; Michael McDonald, a nationally recognized elections scholar; and Sharon Wright Austin, a researcher of African

American political behavior. The dean of the university's college of arts and sciences, David E. Richardson, rejected Smith's request to testify, stating that "outside activities that may pose a conflict of interest to the executive branch of the state of Florida create a conflict for the University of Florida." A university vice president overseeing conflicts of interest issued the other two rejections.

With the disclosure of the administration's ban, five more faculty members, Professors Jeffrey L. Goldhagen of the University of Florida College of Medicine and Kenneth Nunn, Sarah K. Wolking, Teresa Jean Reid, and Mark Fenster, all from the University of Florida Levin College of Law, gave accounts of being barred from testifying or ordered to omit mention of their university positions in court statements.<sup>64</sup> Six of the professors filed suit in US District Court, challenging the university's conflict-of-interests policy. In a scathing opinion issued on January 21, 2022, Judge Mark Walker granted their request for a preliminary injunction.<sup>65</sup> He ordered the university to "take no steps to enforce its conflict-of-interests policy with respect to faculty and staff requests to engage as expert witnesses or provide legal consulting in litigation involving the State of Florida until otherwise ordered."

Judge Walker acknowledged that there was "no evidence before this Court that any representative of Florida's government has directed UF to take any of the actions it has taken in this case." Instead, he tellingly described the university's actions as an example of *vorausseilender Gehorsam* ("preemptive subservience") in anticipation of "perceived pressure from Florida's political leaders." Walker suggested there might be grounds for that perception, given that "some Florida legislators have publicly praised" reported efforts to restrict teaching about critical race theory. More ominously, he emphasized that the chair of the university's board of trustees, Morteza "Mori" Hosseini, one of Florida's largest residential developers and a prominent DeSantis donor, had denounced the faculty. Speaking at the December meeting of the UF board of trustees, Hosseini accused faculty of "taking advantage of their positions" for "personal gain" and "improperly advocat[ing] personal political

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<sup>64</sup> WCJB, "Five More University of Florida Professors Say Officials Restricted Their Participation in Legal Challenges to State Laws," November 3, 2021, <https://www.wcjb.com/2021/11/03/five-more-university-florida-professors-say-officials-restricted-their-participation-legal-challenges-state-laws/>.

<sup>65</sup> <https://www.courtlistener.com/docket/60705681/65/austin-v-university-of-florida-board-of-trustees/>. See also Susan Svrluga and Lori Rozsa, "Judge Rules for Professors in University of Florida Academic Freedom Case," *Washington Post*, January 21, 2022; Adam Steinbaugh and Jordan Howell, "Judge: University of Florida Can't Enforce Conflict-of-Interest Policy to Ban Faculty Testimony," Foundation for Individual Rights and Expression, January 21, 2023, <https://www.thefire.org/news/judge-university-florida-cant-enforce-conflict-interest-policy-ban-faculty-testimony>.

viewpoints to the exclusion of others,” adding, “Our legislators are not going to put up with the wasting of state money and resources, and neither is this board.”<sup>66</sup>

Although the university had already adopted a revised policy, Judge Walker found it inadequate. “The question is whether faculty who wish to speak, outside their ordinary job duties, on topics related to their expertise—which relates to their public employment as university professors—are protected by the First Amendment.” Walker concluded, “The answer is yes.” The university’s appeal was dismissed.

Speaking with the committee, a University of Florida law professor said he had been heartened by Walker’s ruling but was concerned that the university was fighting efforts by the faculty plaintiffs to recover legal fees. Another added that the university had “fought us tooth and nail” and in doing so had sought to “vilify us.” Yet another added, “My view [of law dean Laura Rosenbury and the president and provost at UF] is that I have strongly felt that it has been indefensible that they are all aware of the things going on at UF but have done nothing. They have been wildly ineffectual at protecting faculty.”

## **B. The Assault on Curriculum**

Florida has a long history of legislative and governmental interference in academic matters and college and university governance. State legislators seeking favored policies have frequently used college and university budgets as cudgels.<sup>67</sup> Appointments to higher education boards in the state have long been political—even more, we have been told, than in most states. However, the political interference in classroom teaching that began in 2021 is unprecedented in its sweep and ambition in both the state and the nation, with a frightening potential impact on the academic freedom of faculty members.

Passed in spring 2021, HB 233, known as the Online Freedom and Viewpoint Diversity Act, included an especially troubling provision that permits students to record classroom lectures without giving prior notice to their instructor (or classmates) and without the instructor’s consent, with the express purpose of obtaining evidence to support lawsuits or institutional complaints filed by the

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<sup>66</sup> Alexandra Berzon and Maggie Haberman, “Top Donor Provided Ron DeSantis, an Avid Golfer, with a Costly Simulator,” *New York Times*, June 21, 2023.

<sup>67</sup> Although booming tax revenues and federal aid have allowed the state to spend more freely, including generous funding to New College that had been denied prior to the takeover, Governor DeSantis’s line-item vetoes still included more than \$120 million in cuts to higher education. He denied \$20 million for a nursing school at the University of South Florida in Sarasota, seen by many as a vindictive slap at Sarasota state senator Joe Gruters, who had endorsed Donald Trump over DeSantis for president. In addition, the governor axed more than \$11.2 million for a student achievement center at Florida Polytechnic University. The University of Florida lost \$11 million for an academic and research center, amid other cuts (Hank Reichman, “Financial Shenanigans, Florida Style,” *Academe Blog*, June 16, 2023).

student.<sup>68</sup> The AAUP's 2013 policy statement, *Academic Freedom and Electronic Communications*, notes that "surreptitious recording of classroom speech and activity may exert a chilling effect on the academic freedom of both professors and students."<sup>69</sup>

The act also bars institutions from "shielding" students or faculty members from "ideas and opinions that they may find uncomfortable, unwelcome, disagreeable, or offensive." As the UFF noted in its suit challenging the bill, this provision "ensures that racist and other hate speech is not restricted . . . and that individuals can take legal action against administrations that choose to restrict such speech."

Lastly, the law mandated an annual "Intellectual Freedom and Viewpoint Diversity Assessment" of students, faculty members, and administrators, although its first administration yielded an abysmal response rate, as only 1.7 percent of students filled it out, along with just 10 percent of faculty members, instructional staff, and administrators. In September the system announced that the survey had been temporarily suspended.<sup>70</sup>

The law was challenged in court, but the suit was dismissed because the act lacked enforcement mechanisms. Passing legislation and issuing executive orders without clear definitions or enforcement mechanisms has become a pattern in Florida, suggesting that the intent is to chill academic freedom rather than to legislate in the public interest.

SB 7, ultimately passed and signed into law in the spring of 2022 as the Individual Freedom Act but originally and better known as the Stop WOKE (Wrongs to Our Kids and Employees) Act, added a slew of new items to antidiscrimination law designed to restrict what can be taught.<sup>71</sup> The act makes it unlawful to subject any individual to required employment or educational training that "espouses, promotes, advances, inculcates, or compels such individuals to believe a series of specific concepts."

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<sup>68</sup> Florida Senate, "CS/CS/HB 233: Postsecondary Education," July 1, 2021, <https://www.flsenate.gov/Session/Bill/2021/233>.

<sup>69</sup> AAUP, *Academic Freedom and Electronic Communications*, November 2013, <https://www.aaup.org/report/academic-freedom-and-electronic-communications-2014>. This report glosses the AAUP's long-standing concern with this issue in a footnote worth quoting at length: "The AAUP has been concerned with this issue since its 1915 *Declaration of Principles on Academic Freedom and Academic Tenure*, which stated, 'Discussions in the classroom ought not to be supposed to be utterances for the public at large. They are often designed to provoke opposition or arouse debate.' In the 1980s, a group called Accuracy in Academia encouraged students to record professors' classroom statements and send them to the organization to be tested for 'accuracy.' According to a 1985 statement the AAUP issued jointly with twelve other higher education associations, 'The classroom is a place of learning where the professor serves as intellectual guide, and all are encouraged to seek and express the truth as they see it. The presence in the classroom of monitors for an outside organization will have a chilling effect on the academic freedom of both students and faculty members. Students may be discouraged from testing their ideas, and professors may hesitate before presenting new or possibly controversial theories that would stimulate robust intellectual discussion.'"

<sup>70</sup> Josh Moody, "Florida Temporarily Suspends Ideological Survey," *Inside Higher Ed*, September 14, 2023.

<sup>71</sup> Florida Senate, "CS/HB 7: Individual Freedom," July 1, 2022, <https://www.flsenate.gov/Session/Bill/2022/7>.



Individual faculty members, supported by prominent civil liberties organizations, challenged the law, the higher education provisions of which Judge Walker enjoined in a lengthy opinion that acknowledged the state’s authority to mandate course content but not the specific viewpoints of those who teach that content. He wrote,

The law officially bans professors from expressing disfavored viewpoints in university classrooms while permitting unfettered expression of the opposite viewpoints. Defendants argue that, under this Act, professors enjoy “academic freedom” so long as they express only those viewpoints of which the State approves. This is positively dystopian. It should go without saying that “if liberty means anything at all it means the right to tell people what they do not want to hear.”<sup>72</sup>

One thing is crystal clear—both robust intellectual inquiry and democracy require light to thrive. Our professors are critical to a healthy democracy, and the State of Florida’s decision to choose which viewpoints are worthy of illumination and which must remain in the shadows has implications for us all. If our “priests of democracy” are not allowed to shed light on challenging ideas, then democracy will die in darkness. But the First Amendment does not permit the State of Florida to muzzle its university professors, impose its own orthodoxy of viewpoints, and cast us all into the dark.

The case is under appeal in the US Court of Appeals for the Eleventh Circuit, which has so far declined to lift the injunction.

It is critical to note—as one faculty member did to our committee—two peculiarities of the Stop WOKE Act’s provisions against teaching about race. First, unlike similar laws and proposals elsewhere, SB 7 does not bar teaching that one race is superior to others but only that one race is “morally superior,” leaving it permissible to teach that one race is *intellectually* superior. Second, university administrators have tried to calm fears by noting that the act prohibits only “indoctrination.” However, SB 7 actually prohibits both “indoctrination *and persuasion*” (emphasis added). It is, of course, difficult to imagine how one could teach any subject without seeking somehow to persuade students of something.

In February 2023, HB 999 was introduced in the Florida House of Representatives. In its original form, it would have banned courses “based on unproven, theoretical, or exploratory content.” Gender

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<sup>72</sup> Walker’s opinion is alluding here to George Orwell, “The Freedom of the Press” (1945), Orwell Foundation, <https://www.orwellfoundation.com/the-orwell-foundation/orwell/essays-and-other-works/the-freedom-of-the-press/>.

studies, critical race theory, and intersectionality would also have been prohibited from being taught as majors. Prior to amendments proposed in April 2023, women’s history and women’s studies would also have been among the affected disciplines. The bill’s Senate equivalent, SB 266, which ultimately passed and was signed into law by Governor DeSantis, explicitly limited a smaller number of topics and did not ultimately say where they should be restricted.<sup>73</sup> As enacted, the law requires that

general education core courses may not distort significant historical events or include a curriculum that teaches identity politics, . . . or is based on theories that systemic racism, sexism, oppression, and privilege are inherent in the institutions of the United States and were created to maintain social, political, and economic inequities. . . . Courses with a curriculum based on unproven, speculative, or exploratory content are best suited as elective or specific program prerequisite credit, not general education credit.

These topics may be considered in elective classes, but only after a review. The act also curtails funding of DEI measures on campuses (except in cases where they are needed for accreditation), erodes tenure protections, and empowers boards and presidents to be involved in academic personnel decisions (see below).

It is telling that while the Viewpoint Diversity Act would bar professors from “shielding” students from “uncomfortable” or “offensive” ideas, the Stop WOKE Act makes it unlawful to advance ideas that the legislature and governor find “offensive,” and SB 266 explicitly bars the teaching of certain ideas. Indeed, it appears that these three laws are inconsistent with each other and thus under them the average faculty member would face contradictory directives and obligations. First, the faculty member cannot “shield” students from opposing ideas, even if they are distasteful, discredited, or false, and must provide opposing views. Yet the Stop WOKE Act prohibits the teaching of certain ideas and approaches, which would make it difficult, if not impossible, for instructors to comply with the Viewpoint Diversity Act’s ban on “shielding.” SB 266 would add a third directive: certain ideas about US history and “Western civilization” must in effect be taught. As one faculty leader told the committee, these obvious contradictions are most likely “a feature, not a bug” in the overall assault on academic freedom, because sowing confusion and fear among faculty members about what they can and cannot teach may be the underlying objective of the curricular legislation as a package. Another faculty member put it this way: “It’s expensive to engage in litigation, but cheap to scare people and make them leave.”

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<sup>73</sup> Florida Senate, “CS/CS/CS/SB 266: Higher Education,” July 1, 2023, <https://www.flsenate.gov/Session/Bill/2023/266>.

The state has appealed Judge Walker’s ruling that enjoined implementation of the higher education portions of the Individual Freedom (Stop WOKE) Act. In an amicus brief, the AAUP weighed in on the plaintiffs’ side. The act, the brief argues, “artificially restricts faculty from presenting ideas to students, not based on professional norms or disciplinary standards, but according to governmental diktat, and thereby conscripts them into the service of ‘anti-woke’ indoctrination.” The brief argues that academic speech “by its very nature often involves discussions of disputed and controversial ideas that are liable to offend the powers that be. This is particularly true in disciplines such as history and the social sciences—the IFA’s primary targets.” The act’s “statutory design empowers the government to exploit its position as employer as a means of furthering its aim of political censorship.” Accepting the act’s provisions, the brief argues, “would be tantamount to declaring open season on the notion of universities as ‘non-partisan institution[s] of learning.’ Higher education would be liable to devolving into a political free-for-all, with the result that colleges and universities could no longer be relied upon to foster the discovery of knowledge and truth, to properly educate students, or to prepare experts and professionals for public service.”

No doubt some, perhaps even most, provisions of these laws will not withstand judicial review. Moreover, there are significant signs that the “reforms” trumpeted by the governor are unpopular. But these measures have already inflicted tremendous damage. Several faculty members expressed concern about the impact of the Viewpoint Diversity Act’s provision allowing secret student recording of classes and its chilling effects not only on faculty members but also on students, who fear that a comment they make might become grist for the social-media troll mill. “Florida is a dumpster fire rolling downhill,” opined a UFF leader. Others described an “incredible climate of fear” and a “Kafkaesque” atmosphere pervading the state’s higher education systems. A professor at St. Johns River Community College was told not to teach that the Civil War was a conflict over slavery. An associate dean advised faculty members to avoid the phrase “social justice.” Another professor explained that “there is literally not a class I teach where I am not somehow violating” these acts. One professor asked, “How long can I say the word ‘antisemitism’ in my classes?” Another followed up, “How long can I say ‘institutional racism’?”

Once again, we emphasize the conclusions of the preliminary report:

If there are those in academia who think the developments we have recounted in this report will not affect them because they are at a private institution, or because they are outside of Florida, or because they do not teach in a “controversial” field, or because they are politically conservative, we urge them to pay close attention to the words of a professor at the University

of Florida who self-identifies as a conservative and devout Christian. In an email message to his colleagues, he wrote,

Bottom line: **Big Brother is watching**. He is taking names. **I'm on their "woke" list!** I'm the faculty advisor for the Federalist Society, for the Law School Republicans, and for the Christian Legal Society. If they find me threatening, the rest of you are dead in the water.

Be wary and be aware. If I don't have academic freedom, neither do you. If you don't, neither do I. We are in this together. (emphasis in original)

### C. The Attack on Tenure

The rejection of tenure applications by five New College professors described earlier in this report is no doubt the most flagrant violation of the principle of tenure our committee found. To date we know of no other case in which a tenured faculty member at one of Florida's public colleges or universities has been improperly dismissed. Nonetheless, academic tenure—continuous employment after a probationary period, with service terminated only for adequate cause as determined in accordance with principles of academic due process—is under assault in the state.

At a February 2023 press conference announcing the proposed legislation that would ultimately become SB 266, Governor DeSantis publicly called “unproductive” tenured professors the “most significant deadweight costs” at Florida universities. He sought “to give the boards of trustees and the presidents of the universities the power to call a post-tenure review at any time,” a proposal eventually removed from SB 266.<sup>74</sup>

SB 7044, signed into law by the governor in April 2022, authorizes the Florida board of governors to adopt a regulation requiring tenured state university faculty members to undergo a “comprehensive” post-tenure review every five years, addressing their accomplishments, academic duties, evaluations, ratings, and pay. The regulation could also include “consequences for underperformance.”

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<sup>74</sup> Danielle J. Brown, “DeSantis Says Tenured Professors Are the ‘Most Significant Deadweight Costs’ at FL Universities, Lambastes ‘Ideology’ in University System,” *Florida Phoenix/Islander News*, February 1, 2023, [https://www.islandernews.com/news/florida/desantis-says-tenured-professors-are-the-most-significant-deadweight-costs-at-fl-universities-lambastes-ideology/article\\_159bbd46-a232-11ed-8b04-938505cc96f1.html](https://www.islandernews.com/news/florida/desantis-says-tenured-professors-are-the-most-significant-deadweight-costs-at-fl-universities-lambastes-ideology/article_159bbd46-a232-11ed-8b04-938505cc96f1.html).

On March 29, 2023, the board of governors approved a post-tenure-review process that allows for poorly performing professors to be fired.<sup>75</sup> Although all ten of the system campuses with a tenure system already had their own post-tenure review policies, the new policy both conforms to the requirements of SB 7044 and for the first time establishes a single systemwide standard. Under the new policy, tenured professors will be assessed on their research, teaching, and service, their “history of professional conduct and performance of academic responsibilities,” and any noncompliance with state laws and university regulations, unapproved absences from teaching, or “substantiated” student complaints, among other factors. Those under review will be rated as “exceeds expectations,” “meets expectations,” “does not meet expectations,” or “unsatisfactory.” The rating will be made by the dean, and the university’s chief academic officer can then reject, accept, or change it.

Those meeting or exceeding expectations will be recommended for “appropriate recognition and/or compensation.” Those who do not meet expectations will be placed on a performance-improvement plan with a deadline that cannot exceed a year. Professors who fail to meet the requirements of their plan by the deadline will be fired, as will those rated as “unsatisfactory.” Although board representatives claimed that no one would be fired without being granted the opportunity to first complete a performance-improvement plan, the policy clearly permits immediate dismissal upon receipt of an “unsatisfactory” rating.

An earlier version of the policy had included specific reference to violations of the Stop WOKE Act, leading to fears that the review could be used to dismiss otherwise highly qualified professors who teach or research topics distasteful to politicians. However, those references were removed from the policy as approved.

In written comments—the board received some 1,300 of them—and at the meeting, faculty and some administrators expressed concerns about several provisions of the new policy. The University of South Florida’s faculty senate questioned the policy’s reliance on “substantiated student complaints.” “Complaints about what? About too much homework? She’s a tough grader? That is another element of the process that could easily be abused.”<sup>76</sup>

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<sup>75</sup> For the policy, see State University System of Florida, 10.003 Post-Tenure Faculty Review, [https://www.fibog.edu/wp-content/uploads/2023/03/Full\\_Board\\_ASA\\_03\\_00\\_Regulation\\_10.003\\_FINAL\\_CE.pdf](https://www.fibog.edu/wp-content/uploads/2023/03/Full_Board_ASA_03_00_Regulation_10.003_FINAL_CE.pdf). The following account of the policy and objections lodged to it draws on the reporting of Emma Pettit, “Florida’s Public-University Board Approves Firing Poorly Performing Tenured Professors,” *Chronicle of Higher Education*, March 29, 2023.

<sup>76</sup> Emma Pettit, “Florida’s Public-University Board Approves Firing Poorly Performing Tenured Professors,” *Chronicle of Higher Education*, March 29, 2023, <https://www.chronicle.com/article/against-faculty-wishes-floridas-public-university-board-allows-poor-performers-to-be-fired?sra=true>.

Heather Russell, vice provost for faculty leadership and success at Florida International University, wrote that the process described in the regulation “deviates from the normal evaluation process typically followed by most institutions.” Usually, post-tenure review entails review by only a department chair, a dean, or both, she wrote. But under the regulation, the provost, with “guidance and oversight from the university president,” is the ultimate evaluator. “In short,” Russell wrote, “the proposal moves the evaluative process away from the actual environment in which the work is being conducted.”<sup>77</sup>

The AAUP has long held “that periodic formal institutional evaluation of each post-probationary faculty member would bring scant benefit, would incur unacceptable costs, not only in money and time but also in dampening of creativity and of collegial relationships, and would threaten academic freedom.”<sup>78</sup> But post-tenure reviews need not violate the principle that a tenured faculty member may be dismissed only for cause and following appropriate academic due process.

That is why the most dangerous provision of the University of Florida policy is the one that, in effect, assigns to the provost and president virtually unlimited authority to impose whatever rating they see fit, thereby opening the door to arbitrary dismissals, however thinly veiled by an elaborate “review” process. That provision reads, “With guidance and oversight from the university president, the chief academic officer will rate the faculty member’s professional conduct, academic responsibilities, and performance during the review period. The chief academic officer may accept, reject, or modify the dean’s recommended rating.” The review process is the following: “Final decisions regarding post-tenure review may be appealed under university regulations or collective bargaining agreements, as applicable to the employee. The arbitrator shall review a decision solely for the purpose of determining whether it violates a university regulation or the applicable collective bargaining agreement and may not consider claims based on equity or substitute the arbitrator’s judgment for that of the university.”<sup>79</sup>

If implemented as written, this policy would violate procedural standards for dismissal as set forth in Regulation 5 of the AAUP’s *Recommended Institutional Regulations on Academic Freedom and Tenure*.<sup>80</sup> It remains to be seen whether any university president or provost will seek to use this power in order to rid the university of some unpopular, troublesome, or politically suspect faculty member.

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<sup>77</sup> Ibid.

<sup>78</sup> *Post-tenure Review: An AAUP Response* (1999), <https://www.aaup.org/report/post-tenure-review-aaup-response>.

<sup>79</sup> State University System of Florida, 10.003 Post-Tenure Faculty Review.

<sup>80</sup> See AAUP, *Recommended Institutional Regulations on Academic Freedom and Tenure*, <https://www.aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure>.

Legislatively imposed regulations on post-tenure review have substantially weakened tenure in the Florida State University System and, if fully implemented as written, threaten to eliminate tenure protections, as understood by the AAUP.

#### **D. The Attack on Unions**

Arguably, the most effective vehicle for faculty to defend their rights to academic freedom, tenure, and shared governance is a strong union. Historically, Florida has not been welcoming to unions. It is a “right to work” state.<sup>81</sup> Yet the right to join a union is enshrined in the state constitution. Hence, faculty members in the state’s public higher education institutions have won the right to union representation, although they have been denied the right to strike. The United Faculty of Florida (UFF) represents over 25,000 faculty members at all twelve Florida public universities, sixteen state and community colleges, four K–12 lab schools, and Saint Leo University, a private institution. The UFF also represents 8,000 graduate assistants at four universities and offers “at-large” membership status for individual faculty members at nonunion colleges.<sup>82</sup> Each institution’s chapter negotiates its own collective bargaining agreement with its local board of trustees.

Because the UFF and other public employee unions have opposed efforts by the governor and his allies to roll back shared governance and academic freedom, weakening unions has been a key feature of the state’s reactionary program. In early May, Governor DeSantis signed SB 256, a measure aimed at limiting union power.<sup>83</sup> Under the law, government employees, including university faculty, may no longer have their union dues deducted from their paychecks. Union members must now take extra steps to set up payment plans to remain up to date. Additionally, as of October, public employee unions must share data with the state about how many of their members have paid dues in the most recent membership renewal cycle. If a union does not cross a threshold of at least 60 percent of dues-paying members, the union will be decertified. By making it harder for employees to pay union dues, SB 256 makes it more difficult for the UFF to reach that 60 percent threshold—which puts the continuing existence of the union at risk.

SB 256 builds upon a 2018 law that only impacted K–12 teachers. That measure required teachers’ unions to have at least 50 percent of bargaining unit members pay dues. The new law expands

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<sup>81</sup> The “right to work” rule prohibits unions from requiring represented employees to join the union, that is, to pay union dues as a condition of employment. As of this writing, twenty-six states are right-to-work states.

<sup>82</sup> United Faculty of Florida, “About UFF,” accessed November 20, 2023, <https://myuff.org/about-uff/>.

<sup>83</sup> Florida Senate, “CS/CS/SB 256: Employee Organizations Representing Public Employees,” May 10, 2023, <https://www.flsenate.gov/Session/Bill/2023/256>.

that requirement to all public employee unions—except those representing police, firefighters, and correctional officers. As significantly, SB 256 also raises the threshold from 50 percent of members paying dues to 60 percent or higher.

The act has been challenged by unions in both federal and state courts.

#### **IV. Bias and Discrimination**

*Education can and should expose us to diverse perspectives. Ignorance permits hate, discrimination, and marginalization. And by limiting discussions and awareness of identity, the legislation in Florida is going to instill ignorance in our students, which will promote intolerance and inequity in our future.*

—Megan Meese, first-year student, University of Florida<sup>84</sup>

##### **A. History**

In multiple conversations with Florida faculty members, the committee was repeatedly reminded that Florida is a Southern state and that it has a history of countenancing racial discrimination and intolerance for minorities, including sexual minorities, which still casts a shadow over the state. Following the 1954 *Brown v. Board of Education* decision, the state of Florida, in defiance of the ruling, established a racially segregated community college system. The state published its plan in 1957 and created thirteen segregated junior colleges over the next few years. This segregated community college system was not eliminated until 1966.

Passage of the Civil Rights Act of 1964 enabled the federal government to impose economic sanctions on noncompliant states to enforce desegregation. As a result, Florida was forced to integrate its state college and university systems, which it did reluctantly. Although Black students began enrolling in Florida State University in the 1960s, white-only two-year colleges in the state began mandating entrance exams with cutoff scores that disparately impacted Black students seeking admission. As late as 1977, *Adams v. Califano* found that the state of Florida had still “not achieved desegregation or submitted acceptable and adequate desegregation plans” for higher education.<sup>85</sup>

From 1956 to 1965 Florida’s LGBTQ+ population was terrorized by a legislative committee headed by state senator Charley Johns, which moved from an unsuccessful effort to target civil rights activists as communists to a campaign to “expose” LGBTQ+ teachers and students. In 1956 the Johns

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<sup>84</sup> Quoted in Christine Emba, “How Alarming Are Florida’s Higher-Ed Reforms? Students Weigh In,” *Washington Post*, April 19, 2023.

<sup>85</sup> *Adams v. Califano*, 430 F. Supp. 118 (D.D.C. 1977), <https://law.justia.com/cases/federal/district-courts/FSupp/430/118/2136949/>.



Committee, as it became known, was empowered by the legislature “to make as complete an investigation as time permits of all organizations whose principles or activities include a course of conduct on the part of any person or group which would constitute violence, or a violation of the laws of the state, or would be inimical to the well-being and orderly pursuit of their personal and business activities by the majority of the citizens of this state.” In 1958 the committee began searching for communists and gay people at Florida’s universities. The 1961 legislation reauthorizing the body specifically expanded its charge to investigate “the extent of infiltration into agencies supported by state funds by practicing homosexuals.”

For the next five years “committee agents . . . monitored lavatory stalls and private bedrooms.” The University of Florida was the first academic target chosen in the search for victims. At least fifteen professors and more than fifty students left the University of Florida after being interrogated by investigators. In 2019 the (Fort Lauderdale) *Sun-Sentinel* concluded that the committee “persecuted civil rights leaders, university professors, college students, public school teachers, and state employees for imagined offenses against redneck sensibilities. . . . Niceties like due process or the right to counsel or civil liberties were ignored. . . . They employed entrapment and blackmail.”<sup>86</sup>

## **B. The Assault on DEI**

These past events provide context for what has become a central thrust of the reactionary assault on learning in Florida (and nationwide): the move to eliminate programs aimed at promoting diversity, equity, and inclusion (DEI) at colleges and universities.

On December 28, 2022, acting at the governor’s behest, Chris Spencer, director of the Office of Policy and Budget, sent a memorandum to Commissioner of Education Diaz and State University System Chancellor Rodrigues requiring each state university system institution to submit comprehensive lists of their spending related to DEI initiatives and critical race theory. Each institution was instructed to complete a table attached to the memorandum documenting all staff, including full and partial FTE; total funding spent to support DEI initiatives; and of the total spent, the amount that is state-funded and related to DEI and critical race theory. The chancellor sent the memorandum to campus presidents in a

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<sup>86</sup> Fred Grimm, “Committee’s Innocent Victims Deserve an Apology,” *Sun-Sentinel*, February 24, 2019. The literature on the Johns Committee is extensive. A good place to start is *The Committee*, a documentary film made by Florida faculty members. It can be streamed at <https://www.pbs.org/video/committee-committee/>. See also the series of articles by Emma Pettit in the *Chronicle of Higher Education* emphasizing the continuing relevance of these events: “When Lawmakers Purged ‘Immorality’ from Florida Universities,” October 11, 2022; “What a 1960s Housewife Can Teach Us about Politics in Higher Ed,” November 3, 2022; and “‘Private Little Hell,’” November 28, 2022.

December 29 email, asking that they return the information by January 10. He also instructed them to list only required classes, not electives. Neither the memorandum nor the email stated how the information collected would be used.

In compliance with the memorandum's directive (and without any known objection), the presidents of the Florida College System released on January 18 a statement promising to identify and eliminate, by February 1, any academic requirement or program "that compels belief in critical race theory or related concepts such as intersectionality." In addition to these "beliefs," the presidents vowed that their institutions would not fund "related concepts such as intersectionality, or the idea that systems of oppression should be the primary lens through which teaching and learning are analyzed and/or improved upon. Further, if critical race theory or related concepts are taught as part of an appropriate postsecondary subject's curriculum, our institutions will only deliver instruction that includes critical race theory as one of several theories and in an objective manner."<sup>87</sup>

Much of that statement, it later came out, was produced not by the presidents themselves but by Henry Mack, a high-level administrator in the state Department of Education, "When you look at the drafts of this statement, it's clear that individual campus presidents defer their authority to state officials," Eddie Cole, associate professor of higher education at UCLA, told the *Chronicle of Higher Education*.<sup>88</sup>

On February 1, the governor held a press conference to announce his plan to prevent state colleges and universities from offering programs on DEI and critical race theory. The plan was apparently based on model legislation crafted by Christopher Rufo, whom the governor had just appointed to the New College Board of Trustees. Rufo touted on social media that the plan was a way for state lawmakers to put an end to DEI programs at public institutions: "We've developed a playbook for state legislators to abolish DEI bureaucracies and restore colorblind equality in public universities. The truth is simple: red states should not subsidize racist ideology, bureaucratic capture, and the destruction of their public academies."<sup>89</sup>

Ultimately the ban on DEI was codified in somewhat more moderate form in SB 266, which bans public colleges from spending state or federal funding on DEI unless it is required by federal law. The law

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<sup>87</sup> "Florida College System Presidents Statement on Diversity, Equity, Inclusion and Critical Race Theory," January 18, 2023, <https://www.fldoe.org/core/fileparse.php/5673/urlt/FCSDelstatement.pdf>.

<sup>88</sup> Francie Diep, "A Huge Red Flag: How Florida Colleges' Controversial Statement on Diversity Came Together," *Chronicle of Higher Education*, March 14, 2023.

<sup>89</sup> Christopher F. Rufo, Twitter post, January 17, 2023, <https://mobile.twitter.com/realchrisrufo/status/1615491918812844032>.

also includes an exception for mandates related to obtaining or retaining accreditation—but either the State Board of Education or the state university board of governors would first have to approve the exception.<sup>90</sup>

The act directs the board of governors to adopt regulations to implement its provisions. In October, the *Chronicle of Higher Education* obtained an early draft, now circulating among campus administrators, of proposed regulations governing DEI.<sup>91</sup> Just over two pages long, the draft defines DEI as “any program, activity, or policy that promotes differential or preferential treatment of individuals, or classifies such individuals on the basis of race, color, sex, national origin, gender identity, or sexual orientation.” It defines political or social activism as “any activity organized with a purpose of effecting or preventing change to a government policy, action, or function, or any activity intended to achieve a desired result related to social issues, where the university endorses or promotes a position in communications, advertisements, programs, or campus activities.”

The draft regulations prohibit the use of “any state or federal funds to promote, support, or maintain any programs or campus activities constituting government speech that” violate the Stop WOKE Act, “advocate for diversity, equity, and inclusion,” or “promote or engage in political or social activism.” Universities would, under the proposal, also be barred from “manipulating, or attempting to manipulate, the status of an individual or group to equalize or increase outcomes, participation or representation as compared to other individuals or groups.” This provision might reasonably be applied to various programs aimed at narrowing achievement gaps. In addition, the proposed regulations would bar institutions from “advancing the premise or position that a group or an individual’s action is inherently, unconsciously, or implicitly biased.”

The proposed regulation would also require public universities to designate “agents” to enforce the prohibitions on DEI spending. After the board of governors has received input from the campuses, the regulation is expected to be posted for public comment and voted on by the board in early 2024.

Underlying the ban on DEI initiatives (enacted in SB 266) is an ideological and political offensive that has the potential to be even more punitive, if left unchecked. That offensive can be seen in one of its more reactionary forms in a report issued March 11, 2023, by the extreme right-wing Claremont Institute, *Florida Universities: From Woke to Professionalism*, written by Scott Yenor, an institute staff

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<sup>90</sup> Eva Surovell, “Diversity Spending Is Banned in Florida’s Public Colleges,” *Chronicle of Higher Education*, May 15, 2023.

<sup>91</sup> Adrienne Lu, “Here’s What Florida’s Proposed Anti-DEI Regulations Would Ban,” *Chronicle of Higher Education*, October 12, 2023.

member.<sup>92</sup> Regardless of the direct impact of this report currently, it stands as a disturbing model of the thinking of at least one segment of the state’s current political leadership.<sup>93</sup> The report’s executive summary describes diversity, equity, and inclusion initiatives “as cover words for transforming institutions of higher education into activist arms of the American left.”

The report declares that “Florida’s universities are gripped by DEI ideology” and provides a slew of purported examples as support. In response, the report recommends a number of policy measures, including a call to “defund and disband all DEI offices in Florida’s colleges and universities”—already partially accomplished by SB 266—“and to release (not reassign) those associated with those offices.” The report would also “prohibit the use of DEI statements in faculty hiring” (New College has already done this) and “apply economic and other analysis to university departments, asking whether they present sufficient economic or political benefit to the state.”

Finally—and emblematic of how civil rights discourses get co-opted by the far right to promote misogynistic (and/or racist) agendas—is the recommendation to “order civil rights investigations of all university units in which women vastly outnumber men among the student body and/or faculty—especially colleges of nursing and education—for disparate impact [and for] any anti-male elements of curriculum or programming.” Here, the feminization of certain professional fields, marked by low wages and gendered expectations of care, is framed as evidence of antimale bias rather than acknowledged as evidence of structural and cultural disadvantages faced by women.<sup>94</sup>

To be sure, legitimate questions can be raised about some DEI initiatives and practices on grounds ranging from concerns about academic freedom to questions of effectiveness.<sup>95</sup> But anyone who has spent any real time on just about any US college or university campus will recognize this report’s description as propaganda. Nonetheless, we fear it represents the perspective of more than a few politicians and even some educators.

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<sup>92</sup> Scott Yenor, *Florida Universities: From Woke to Professionalism* (Claremont, CA: Claremont Institute, 2023). We should point out that the committee’s attention was first drawn to this report by a conservative law professor, who believed its claims about Florida universities were at best greatly exaggerated and who had taken umbrage at what he perceived as mistreatment of his work in it.

<sup>93</sup> Ron DeSantis, 46th Governor of Florida, “Governor Ron DeSantis Hosts Roundtable Exposing the Diversity Equity and Inclusion Scam in Higher Education,” March 13, 2023, <https://www.flgov.com/2023/03/13/governor-ron-desantis-hosts-roundtable-exposing-the-diversity-equity-and-inclusion-scam-in-higher-education/>.

<sup>94</sup> The report of this special committee is not, however, the place for a refutation of all the views represented in the Claremont Institute Report, if one is even called for. Our purpose is only to provide a perhaps chilling context for developments in Florida. For a more thorough critique of the report, see Lynn Pasquerella, “Curbing Dog-Whistle Politics,” *Academe*, Fall 2023, <https://www.aaup.org/article/curbing-dog-whistle-politics>. Pasquerella is the president of the American Association of Colleges and Universities.

<sup>95</sup> AAUP, *Academic Freedom and Tenure: Hamline University*, May 2023, <https://www.aaup.org/report/academic-freedom-and-tenure-hamline-university-minnesota>.

### C. The Assault on LGBTQ+ Rights

One of the most disturbing features of the reactionary attack on higher education in Florida has been how it has been so closely linked to a broader assault on the rights and social gains of sexual minorities. Much has been made elsewhere of Florida's notorious "Don't Say Gay" law, which applies to K-12 schools, and about efforts to remove gay- and trans-themed books from libraries.<sup>96</sup> It is as if the Johns Committee has been revived. In multiple conversations with faculty members and others in Florida as well as in media reports, we have repeatedly encountered tales of the harassment and intimidation of LGBTQ+ faculty and students.

We have already mentioned the ban on gender-neutral signage on bathrooms at New College. In May 2023, the legislature passed and the governor signed HB 1521, the "Safety in Private Spaces Act."<sup>97</sup> The law's purpose is to "provid[e] restrooms and changing facilities for exclusive use by females or males, respective to their sex, in order to maintain public safety, decency, decorum, and privacy." Among other provisions, the law "requires each educational institution to establish in its code of student conduct disciplinary procedures for any student who willfully enters a restroom or changing facility designated for the opposite sex on the premises of the educational institution, for a purpose other than the authorized uses listed in the bill and refuses to depart when asked to do so by an authorized person."<sup>98</sup>

In response, the State Board of Education approved a new rule in August detailing the disciplinary actions colleges must take for employees who do not use the bathroom corresponding to the sex they were assigned at birth. Colleges can under the rule "utilize a progressive discipline process" for first offenders, including "verbal warnings, written reprimands, suspension without pay, and termination." However, "a second documented offense must result in a termination."<sup>99</sup>

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<sup>96</sup> Maya Yang, "Florida Board Approves Expansion of 'Don't Say Gay' Ban to All School Grades," *Guardian*, April 19, 2023; Alex DeLuca, "Florida Surpasses Texas as Leader in U.S. School Book Bans," *Miami New Times*, September 21, 2023.

<sup>97</sup> Florida Senate, "CS/HB 1521: Facility Requirements Based on Sex," July 1, 2023, <https://www.flsenate.gov/Session/Bill/2023/1521>.

<sup>98</sup> Florida Senate, "CS/HB 1521: Facility Requirements Based on Sex" (bill summary), 2023, <https://www.flsenate.gov/Committees/bills/summaries/2023/html/3186>.

<sup>99</sup> Susan H. Greenberg, "Florida College System Must Fire Employees Who Defy Bathroom Ban," *Inside Higher Ed*, August 24, 2023.

## V. The Human Toll

*No job is worth selling out everyone below you.*

—Dawn Rothe, professor of criminology and UFF-FAU president, Florida Atlantic University (interview with the special committee)

*My responsibilities to my students far outweigh Governor DeSantis’s presidential ambitions.*

—Jeffrey Adler, professor of history and criminology, University of Florida (interview with the special committee)

*These governmental attacks from the State of Florida have made us unsafe.*<sup>100</sup>

—Carolyn Ali-Khan, associate professor of education, University of North Florida

Everyone with whom the committee spoke reported the same thing: faculty are leaving Florida, and they are doing so because the conditions of their employment are becoming insufferable and they can no longer do their jobs. UFF president Andrew Gothard reminded us of the human toll of this unprecedented assault on public higher education in the state. “People are exhausted,” he told us. They are “tired of being stepped on.” Another (now former) faculty member at New College told the committee, “We are suddenly refugees in academia, and there are fewer and fewer jobs out there for us.”

To be sure, not everyone may be so dissatisfied. A couple of faculty members and one former administrator remarked on the sometimes puzzling “disconnect” between what goes on in classrooms and the public discourse, noting that many faculty members still “do what they’ve always done.” But these people also acknowledged that tenure was a determining factor in such cases. The vast majority of our interviewees, tenured faculty included, remarked on how “unbearable” the situation was. More and more faculty members are, in effect, voting with their feet. Many are leaving the state, often to take positions at less prestigious institutions with more onerous teaching loads; still others are being recruited away from Florida. “I am leaving for [name withheld] University. I am not being chased out, but it starts to wear on you after a while,” reported a long-time senior faculty member at the University of Florida. Others cannot leave, either owing to family or other ties to Florida or simply to the absence of

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<sup>100</sup> Quoted in Tressie McMillan Cottom, “What It Is Like to Teach in the Cross Hairs of Ron DeSantis,” *New York Times*, June 27, 2023.

alternative employment in a tight job market. They may retire early, or even leave academia for other work.

We have already mentioned the departure of over 40 percent of the faculty at New College, but other institutions are experiencing a similar, if less dramatic, trend. Gothard has predicted a loss of between 20 percent and 30 percent of faculty members at some Florida universities during the 2023–24 academic year, a significant increase in turnover.<sup>101</sup> When AAUP state conferences in Florida, Georgia, North Carolina, and Texas joined together to help administer a survey of faculty in those states, the results were sobering, if not shocking. Of 642 faculty members responding from Florida, almost 300, about 46 percent, said they will seek employment outside of the state in the next year. Twenty-eight percent said they have already begun interviewing. An overwhelming majority of the faculty members surveyed, 95.3 percent, called Florida’s political atmosphere around higher education “poor” or “very poor.” About 85 percent said they would not encourage a graduate student or faculty member in another state to come to Florida. About 36 percent said they planned to leave academia. “These results illustrate how Gov. DeSantis and his supporters’ policies are continuing to harm our state’s colleges and universities,” the UFF said in a statement.<sup>102</sup>

Assistant Professor of Mathematics James Pascoe came to the University of Florida in 2018. Three years later he began looking for a new position. “It was becoming clear that the university was becoming politicized,” he said. “When I was waiting to hear back on job applications, they started passing all these vaguely anti-gay, anti-LGBTQ+ laws. The state didn’t seem to be a good place for us to live in anymore.” He accepted a position at Drexel University in Philadelphia, and his partner joined the biology department at nearby Haverford College.

Law professor Kenneth Nunn, who was among the faculty members challenging the University of Florida’s conflict-of-interests policy, retired after thirty years. “Florida is toxic,” he said. One of the few Black members of the law faculty, he said he chose to retire in part because of the proposed ban on teaching critical race theory. In conversation with the committee, he reported his experience on a search committee: “We have been completely unsuccessful in getting any entry-level African American faculty member, because CRT is very important to African American scholars, particularly in legal contexts and law schools. I think they see these attacks on CRT as attacks on what they do. I had a number of job candidates tell me that.” We heard similar concerns about the hiring of faculty of color

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<sup>101</sup> Quoted in Joseph Contreras, “‘I’m Not Wanted’: Florida Universities Hit by Brain Drain as Academics Flee,” *Guardian*, July 30, 2023.

<sup>102</sup> *Ibid.*

and LGBTQ+ faculty from many interviewees. Nunn is now teaching at Howard University as a visiting professor. “I could have stayed in a place where I’m not wanted and tough it out,” he added. “Or I could retire and look for work elsewhere.”<sup>103</sup>

Bess Wilson, associate professor of education at the University of North Florida, told columnist Tressie McMillan Cottom that “her academic work became increasingly difficult to do in Florida.” She also grew distrustful of her neighbors. “They voted for this?” she asked. “‘This’ included anti-trans legislation that affects her trans daughter’s school.”<sup>104</sup> Another faculty member at New College, who is a visible voice of resistance to the board’s agenda, informed this committee that her neighbor threatened to come after her with a baseball bat.

It was frequently pointed out to us that the various pieces of legislation may be difficult to implement, at least outside of New College. But many of the faculty members we spoke with agree that the outcome of the bills is irrelevant and that “the damage is done,” as they are already witnessing a culture of fear, censorship, and surveillance in their workplaces. All together, these have created an environment that is actively hostile, especially toward some members of the faculty whose research and/or identities are not “aligned” with the DeSantis administration’s ideological preferences and positions.<sup>105</sup>

If it is becoming increasingly difficult to recruit faculty in Florida it has also been hard to find qualified administrators willing to work under leaders who regularly demonstrate disdain for their own institutions and their missions and demand ideological and political fealty. “We have multiple high-ranking leadership positions open at the University of Florida, and I don’t know who they’re going to fill them with because if you care about academia, you’re not coming to the University of Florida right now,” said Florida Democratic Party chair Nikki Fried.<sup>106</sup>

More tragic, however, is the impact on students. When a *Washington Post* columnist visited Gainesville, she heard students speak of their fears. “I’m so scared for people like me,” one told her.

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<sup>103</sup> Ibid.

<sup>104</sup> Cottom, “What It Is Like to Teach in the Cross Hairs of Ron DeSantis.”

<sup>105</sup> The recent attack on David Boyles at Arizona State University underscores the real threat of physical harm to members of the faculty, as the anti-LGBTQ and racist rhetoric escalates, in Florida and beyond (Ryan Quinn, “Arizona State Instructor Followed, Injured by Turning Point USA Crew,” *Inside Higher Ed*, October 14, 2023, <https://www.insidehighered.com/news/faculty-issues/diversity-equity/2023/10/14/arizona-state-instructor-followed-injured-turning>).

<sup>106</sup> Quoted in Kali Holloway, “Florida’s ‘War on Woke’ Is Spurring a Brain Drain,” *Nation*, September 20, 2023.



One student told of being harassed outside a women’s studies class. “Our education is being used against us for political gain,” another warned.<sup>107</sup>

In March a survey found that 91 percent of college-bound Florida high school students “disagree with DeSantis’s policies,” along with 79 percent of currently enrolled college students in the state. Nearly 13 percent of this year’s high school graduates cited the state’s educational policies as the reason they won’t attend a Florida state school. Among those who do plan to enroll, 78 percent of respondents expressed concern the DeSantis “policies will have a negative impact on their education.”<sup>108</sup>

## **VI. Conclusions: Florida, the Harbinger**

*We can’t run away from what is happening in Florida. Bullies depend on their victims running away and hiding. On their silence. We can’t run away and hide. We can’t be silent. As weird and peculiar as some of this appears, this is not a Florida problem. This is not a women, people of color, or LGBTQ problem. This isn’t an attack on a limited number of people, and a limited number of issues.*

—LeRoy Pernel, professor of law, Florida A&M (interview with the special committee)

*A repressive State depends not just on passivity but also isolation. Through a sense of disconnection with others, it encourages a deeper alignment with the State.*

—Paul Ortiz, professor of history, University of Florida (interview with the special committee)

*The contagion is spreading. It’s not just a Florida problem.*

—Amy Reid, professor of French and director of the gender studies program, faculty trustee, New College of Florida (interview with the special committee)

This report has detailed many deeply concerning developments in Florida:

1. Academic freedom, tenure, and shared governance in Florida’s public colleges and universities currently face a politically and ideologically driven assault unparalleled in US history, which, if sustained, threatens the very survival of meaningful higher education in the state, with dire implications for the entire country.

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<sup>107</sup> Christine Emba, “How Alarming Are Florida’s Higher-Ed Reforms? Students Weigh In,” *Washington Post*, April 19, 2023.

<sup>108</sup> Holloway, “Florida’s ‘War on Woke’ Is Spurring a Brain Drain.”

2. The unprecedented takeover of New College of Florida and the imposition at that institution of an aggressively ideological and politically motivated agenda, marked by improper denials of tenure and a faculty member’s dismissal without due process, stands as one of the most egregious and extensive violations of AAUP principles and standards at a single institution in recent memory. Taken as a whole, those actions, we believe, merit condemnation. .

3. In the broader State University System of Florida, shared governance stands in mortal danger principally because of legislative and governing board interference in fundamental matters of curricula and faculty status, including tenure, that should properly be under the purview of the faculty, but also because of the complicity of many administrators with this interference or their unwillingness to speak out against it.

4. As the AAUP stated in its 1994 statement *On the Relationship of Faculty Governance to Academic Freedom*, “Sound governance practice and the exercise of academic freedom are closely connected, arguably inextricably linked. While no governance system can serve to guarantee that academic freedom will always prevail, an inadequate governance system—one in which the faculty is not accorded primacy in academic matters—compromises the conditions in which academic freedom is likely to thrive.” Hence, academic freedom in the state university system is also threatened, even if, outside of New College, serious violations have yet to emerge and full implementation of laws interfering with the faculty’s freedom to teach has so far been stalled by judicial review.

5. The state government’s assault on diversity, equity, and inclusion initiatives and on “woke” disciplines reflects not only a blatant disregard for academic standards of governance and academic freedom but also a discriminatory and biased assault on the rights of racial minorities and LGBTQ communities. It represents a throwback to Florida’s darker past that must be repudiated.

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During the dozens of interviews conducted by the special committee with faculty members across Florida, two sentiments came up frequently: the reality in Florida is “Orwellian,” and Florida is the “canary in a coal mine.” Indeed, the threat from authoritarian politicians who use phrases like “Stop WOKE,” “DEI bureaucracy,” and “indoctrination” to limit academic freedom while imposing their worldview upon institutions of higher education cannot be overstated. Neither can the threat of Florida-style legislation spreading across the country.

We have already witnessed the proliferation of anti-DEI measures similar to those adopted in Florida in several states. In fact, legislators in nearly half the states in the country are currently proposing or have proposed anti-DEI bills. Several such bills have become law, including in North Dakota,

North Carolina, South Dakota, Tennessee, and Texas. Similar bills have been introduced in Ohio and South Carolina. According to UCLA's CRT Forward project, a total of 229 "local state, and federal government entities across the United States have introduced 750 anti-Critical Race Theory bills, resolutions, executive orders, opinion letters, statements, and other measures."<sup>109</sup> Eighteen states have signed into law or similarly approved a CRT ban.<sup>110</sup> Most bills target all or a combination of the following: diversity statements, mandatory diversity training, funding for DEI offices and programs, teaching of certain "divisive concepts" or "controversial topics," or teaching about structural forms of racism and injustice. We can expect the situation to get worse as we approach the 2024 presidential elections. Former president Donald Trump has unveiled his educational policy for his 2024 campaign, which includes cutting federal funding for "critical race theory, gender ideology, or other inappropriate racial, sexual, or political content." He is also calling for a certification program for teachers who "embrace patriotic values" and "funding preferences and favorable treatment" for those states and school districts that work to abolish tenure.<sup>111</sup>

But placing Florida in a national context is insufficient; the attack on academic freedom is part of an extensive assault on democracy worldwide. Florida and other states following suit are part of a global rise in right-wing, nationalistic political agendas that know well the power of a diminished sense of citizenship, increased surveillance, and increased obedience to the state to control citizens for generations to come. They know well that access to knowledge, free inquiry, and education that employs a critical lens to understanding our past and present injustices are among the biggest threats to their dreams of a nation built for uplifting only certain races or religions. They are also among the most powerful means for inculcating an expansive sense of citizenship, one that challenges authoritarian directives and narratives. In China, President Xi Jinping has built a surveillance state where students serve as spies and academic freedom is severely and aggressively curtailed. In Turkey, President Recep Tayyip Erdoğan led an assault on academia that resulted in approximately six thousand academics losing tenure or being dismissed for allegedly supporting his rival and participating in a failed coup attempt.<sup>112</sup> In India, history, political science, and sociology texts are being revised as part of a "rationalization

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<sup>109</sup> UCLA School of Law, "CRT Forward," accessed November 21, 2023, <https://crtforward.law.ucla.edu/>.

<sup>110</sup> World Population Review, "Critical Race Theory Ban States 2023," accessed November 21, 2023, <https://worldpopulationreview.com/state-rankings/critical-race-theory-ban-states>.

<sup>111</sup> Meredith McGraw, "Trump Unveils New Education Policy Loaded with Culture War Proposals," *Politico*, January 26, 2023, <https://www.politico.com/news/2023/01/26/trump-unveils-education-policy-culture-war-00079784>.

<sup>112</sup> See *Academe*, Fall 2023, <https://www.aaup.org/issue/fall-2023-confronting-legislative-attacks-higher-education> for a longer discussion of autocratic states globally and their similarities with the United States. The articles by John Aubrey Douglass and Jennifer Ruth are especially pertinent.

process,” but academics argue that the changes help promote the Hindu nationalist vision of Prime Minister Narendra Modi’s Bharatiya Janata Party. These revisions partly entail limiting references to Muslim rule, anti-Muslim violence, and Hindu-Muslim unity in history, sociology, and political science textbooks.<sup>113</sup> In Europe, Viktor Orbán, prime minister of Hungary, has been on an anti-LGBTQ, anti-migrant, and anti-Muslim offensive, limiting the teaching of gender and sexuality in schools and reinforcing “Christian values.” His war on “woke culture”—down to his slogans—could easily be mistaken for Ron DeSantis’s “war on woke.”<sup>114</sup>

When looking at the national and global picture, one cannot help but conclude that none of what we are seeing in Florida is unique. Nor is it simply chaotic and haphazard policymaking. The actions and words of DeSantis, Trump, Xi, Erdoğan, Modi, Orbán, and others like them come from the same playbook of authoritarianism—one that incites fear, promises the return of a mythologized “golden era,” identifies an enemy (or enemies), and empowers certain groups by suppressing others. When we fight for free inquiry, we fight not just for the ability of individuals to teach and write freely; we fight for the generations to come and for their ability to understand and envision a world that is more than a reflection of the interests of those in power.

What is unfolding in Florida is horrifying. It should serve as a cautionary tale to all in higher education, but we are mindful that this tale has yet to reach its conclusion. The time for intervention has not passed—yet. We call on all professional organizations, unions, faculty, students, staff, administrators, and communities across the country to fight such “reforms” tooth and nail and to offer support to colleagues and unions in Florida and beyond, however they can. The survival of the institution of higher education free from political interference and the ideological agenda of autocrats—a cornerstone of democratic societies—hangs in the balance. Being a bystander is no longer an option.

**AFSHAN JAFAR** (Sociology)

Connecticut College, *cochair*

**HENRY REICHMAN** (History)

California State University, East Bay, *cochair*

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<sup>113</sup> <https://time.com/6269349/india-textbook-changes-controversy-hindu-nationalism/>.

<sup>114</sup> Associated Press, “At CPAC, Hungary’s Viktor Orban Decries LGBTQ+ Rights, Migration,” May 4, 2023, <https://www.pbs.org/newshour/world/at-cpac-hungarys-viktor-orban-decries-lgbtq-rights-migration>.

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*Special Committee*

Committee A on Academic Freedom and Tenure has by vote authorized publication of this report on the AAUP website and in the *Bulletin of the American Association of University Professors*.

Chair: **NICHOLAS FLEISHER** (Linguistics), University of Wisconsin–Milwaukee

Members: **EMILY M. S. HOUH\*** (Law), University of Cincinnati; **RANA JALEEL** (Gender, Sexuality, and Women’s Studies), University of California, Davis; **MARK S. JAMES** (English), Molloy University; **ANIL KALHAN\*** (Law), Drexel University; **MICHAEL MERANZE** (History), University of California, Los Angeles; **DERRYN MOTEN** (History and Political Science), Alabama State University; **PATRICIA C. NAVARRA** (English), Hofstra University; **ELLEN SCHRECKER** (History), Yeshiva University; **CHARLES TOOMBS\*** (Africana Studies), San Diego State University; **RISA L. LIEBERWITZ** (Law), Cornell University, ex officio; **NANCY LONG**, AAUP Washington Office, ex officio; **IRENE T. MULVEY** (Mathematics), Fairfield University, ex officio

\*Did not participate in the vote.