



RICK GUNDRUM

STATE REPRESENTATIVE • 58TH ASSEMBLY DISTRICT

Testimony on Senate Bill 409

Senate Committee on Universities and Technical Colleges | February 10, 2022 | Room 411 South

Thank you Chair Roth, Vice-Chair Nass, and members of the Senate Committee on Universities and Technical Colleges for holding this hearing and allowing me to testify on Senate Bill 409. The purpose of this legislation is to prohibit race and sex stereotyping in instruction on our college campuses.

Senator Jacque and I brought forward this legislation to address divisive political agendas within our institutions of higher learning. While it is important that our institutions remain committed to teaching history, no student or campus employee should be told to hate themselves. Our bill as amended prohibits instructors from compelling students to affirm, adopt, or adhere to several tenets in their personal capacities as individuals. These include the following concepts:

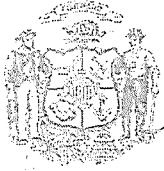
- One race or sex is inherently superior to another race or sex.
- An individual, by virtue of an individual's race or sex, is inherently racist, sexist, oppressive, whether consciously or unconsciously.
- An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.

There are other concepts which you can find in the bill language. SB 409 as amended will also create more transparency in our colleges and universities by giving students and employees a pathway to file complaint that would be reviewed by the UW Board of Regents of the Technical College System Board. It also requires that our academic institutions post all course syllabuses online during the open enrollment period for the institution to help students better decide what classes to enroll in.

If a UW System institution or State Tech College is in violation of this legislation, 5% of certain state aid will be withheld from the violating institution. There is plenty of opportunity to correct the problem before it gets to the point of reducing an institution's state aid and incurring court costs. The institution will have 20 business days to remedy the violation.

SB 409 as amended will also prohibit institutions of the University of Wisconsin System and the Wisconsin Technical College System from requiring students to attend a noncredit-earning orientation or training at which the institution adopts any of the tenets prohibited by the bill.

Our universities can have vigorous, academic discussions on important topics without humiliating any students or employees and teaching concepts that are a slap in the face to what the United States of America was founded on and stands for.



ANDRÉ JACQUE

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*Testimony before the Senate Committee on Universities and Technical Colleges
State Senator André Jacque
February 10, 2022*

Chair Roth and Committee Members,

Thank you for holding this hearing on Senate Bill 409, which will work to prevent racist and sexist student instruction and training for employees at the University of Wisconsin System and the Technical College System.

Senate Bill 409 prohibits instructors from requiring students to affirm that one race or sex is superior to another, either as part of a course or through mandatory orientation or training, such as was required of graduate students before registering for courses at UW-Madison this past academic year. Additionally, it requires academic institutions and technical colleges to post all course syllabuses online.

SB 409 will give students and employees a pathway to make their voices heard by having an opportunity to issue a complaint if any concepts within the legislation are being taught. It also allows students and employees to file civil action against the violating institution.

The American people continue to believe that everyone in the United States should have an equal opportunity to succeed. Our institutions of higher learning have a responsibility to not teach students or train employees in divisive concepts that risk fracturing the union and make them feel ashamed for being a certain race or sex.

Thank you for your consideration of Senate Bill 409.



Office of Government Relations

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DATE: February 10, 2022

TO: Members of the Senate Committee on Universities and Technical Colleges

FROM: Jeff Buhrandt, UW System Interim Vice President for University Relations

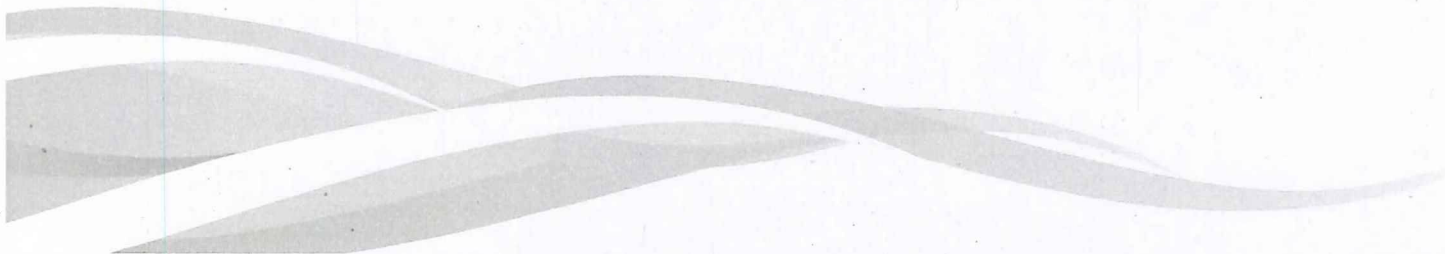
RE: Written Testimony on Senate Bill 409

Thank you, Chair Roth and committee members, for providing the UW System (UWS) an opportunity to submit written testimony on Senate Bill 409.

As written, this bill would serve to limit freedom of speech and expression on our campuses. Higher education is a space for individuals to explore and engage in critical thought. We strive to cultivate healthy discussion and debates on our campuses. These debates can often involve contentious theories, ideas, and historical context. These discussions should not be limited at the higher education level. This legislation would severely limit both academic freedom and first amendment rights of both students and faculty. The proposed legislation would be the first time that our higher education institutions have been directed on what we can or cannot teach, setting a detrimental precedent on academic freedom.

In 1894, there was a trial before the Board of Regents against Richard Ely, a professor at the University of Wisconsin Madison whose controversial beliefs and teachings were the subject of much scrutiny at the time, on the charges that his teachings on socialism encouraged strikes and boycotts. The Board of Regents final report on the trial includes this statement; "Whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found." The Regents cleared Professor Ely unanimously and used his trial to make a loud & clear statement about the importance of freedom of speech and expression at the UWS. Passage of this legislation would undercut this long held standard and practice of first amendment rights.

Thank you again for the opportunity to provide testimony on this legislation and UW System's commitment to academic freedom on our campuses.





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SB 409

Senate Committee on Universities and Technical Colleges

Senator Roger Roth, Chair

February 10, 2022

Senate Bill 409 prohibits WTCS Colleges and University of Wisconsin Institutions from providing student instruction and employee training on certain issues related to race and gender stereotyping. The WTCS is unable support this proposed legislation.

1. Employers are looking to Wisconsin's technical colleges for support and assistance in adapting to the workforce implications of the state's changing demographics.

The demographics in our state are undeniably changing. This has created significant challenges for employers in every sector and region of the state. Nationally, there will be no single demographic majority by 2042. By 2050, people of color will comprise over half the workforce and 1 in 5 people living in the U. S. will be Hispanic.

In Wisconsin, according to U. S. News & World Report (based on census data):

- In 1980, of 25 small Wisconsin cities (with a population between 20,000 to 100,000):
 - 3 had populations that were more than 1% Black;
 - 2 were more than 1% Asian; and
 - 8 had populations that were 1% or more Hispanic.
- By 2010, of the now 35 small Wisconsin cities:
 - 9 were more than 5% Black;
 - 11 were more than 5% Asian; and
 - 19 of the 35 were more than 5% Hispanic.

These demographic shifts were greatest early this century. Between 2000 and 2010, Black people as a percentage of total population more than doubled in a dozen of Wisconsin's small cities. In Milwaukee – the state's largest, most diverse city – white people now comprise just 44% of the population.

Wisconsin employers understand these trends in a very real, immediate way. They recognize a failure to adapt is a threat to their business and are attempting to meet these challenges as quickly as they can. Therefore, WTCS's employer partners have been committed to diversity, equity, and inclusion efforts and have done so to make their places of employment appealing to Wisconsin's changing demographic.

For example, Schreiber Foods Inc., which is headquartered in Green Bay, employs more than 7,000 people worldwide and whose CEO, Mike Haddad was one of the first to sign the pledge of Action for Diversity & Inclusion in 2017 and recommitted to the pledge in 2019.

In addition, Associated Builders and Contractors, one of the nation's leading trade associations with 69 chapters in the US and more than 22,000 commercial contractors among its members, has also made commitments to the nation's changing demographics by instituting their very own developed Inclusion, Diversity and Equity Training Program.

Finally, Rockwell Automation has found that their employees are the very foundation to the company's success and have been recognized for their commitment by establishing a diversity, equity and inclusion team that provides training to their more than 23,500 employees globally.

All WTCS programs have advisory committees that are required to include strong local business representation and are what drives program content and curriculum. Moreover, technical colleges are receiving increased requests from local businesses to provide diversity, equity, and inclusion training directly to their workforce.

Passage of this legislation, which would prohibit teaching some aspects of diversity, equity, and inclusion, is contrary to what's being done by Wisconsin corporations and WTCS partners. It is imperative that technical colleges be reflective of these successful corporations in continuing to provide this training and instruction on our campuses and directly at the employers' place of business.

2. Student support, activities or events geared toward growing Wisconsin populations would be immediately jeopardized by the passage of this legislation, at a high cost to the employers waiting anxiously to hire technical colleges graduates.

Wisconsin technical colleges provide instruction to some of the most diverse student populations that require unique supports for success, including recognition of their individual experiences and challenges. The WTCS Hispanic enrollment has grown from 5.52% in FY 2010-11 to 9.09% in 2019-20, while the white population has shrunk from 76% to 70% over the same period. Also, one-fifth of WTCS' total population are considered economically disadvantaged.

To produce the most consistently positive outcomes for employers, Wisconsin's technical colleges must be able to support students in successfully completing courses and programs and earning credentials. For example, WTCS colleges have student services in place and their goal is to reach these populations. The colleges have organizations, clubs and initiatives that are designed to reach out to these populations to provide instructional services so that these students can be successful in their academic careers. Increasing educational attainment for these students is key to developing Wisconsin's workforce and passage of this bill may limit the tools used in student success initiatives.

Outreach to the community is not limited to race or color. Although WTCS enrollments are split evenly between males and females, disparities exist in outcomes by program and overall. For example, of the 2020 Business, Management and Administration graduates 72% were female and 28% were male, as compared to Manufacturing graduates where 9% are female and 91% male. Furthermore, for the total graduates from all programs 62% were female and 38% were male. It is imperative our colleges have discussions based on gender to explore why these disparities exist and how to resolve them.

3. Fiscal Implications

All WTCS districts are willing to share their course and curriculum upon request. However, posting all syllabi online and keeping it current would create costs as technical colleges are continually revising curriculum in response to changes in the workplace.

Last year, there were 82,661 total courses offered across the 16 technical colleges, including 2,285 course offerings at the smallest technical college. Under the proposed legislation, the colleges would be required to review, organize and support all posting of materials to the web. Such a costly undertaking will potentially require colleges to redirect funding from other critical student services to ensure compliance if the proposal becomes law.

In addition to the fiscal implication of posting materials, the bill would impose significant new administrative and legal costs to create local policies and procedures, to investigate alleged violations and to defend potential lawsuits.

Furthermore, the system office would need to create a new legal position with expertise in first amendment law to review and make recommendations regarding complaints filed with the WTCS Board.

Overall, we estimate the cost of this legislation to be \$6.3 million annually.



WISCONSIN

UNIVERSITY OF WISCONSIN-MADISON

Senate Committee on Universities & Technical Colleges 2021 Senate Bill 409

*Anti-racism and anti-sexism student instruction and anti-racism and anti-sexism training for employees
at the University of Wisconsin System and the Technical College System*

February 10, 2022

Chairman Roth and members of the Committee:

For myself and on behalf of the University of Wisconsin-Madison, thank you for the opportunity to testify today. My name is John Zumbrunnen. I've worked at UW-Madison for the last 13 years as a faculty member in the Department of Political Science.

I currently also serve as Vice Provost for Teaching and Learning. My appearance here today is largely in that administrative role, though I will be speaking in part about my own experience as a UW-Madison instructor. Speaking first in my administrative role, let me say at the outset that UW-Madison respectfully opposes passage of Senate Bill 409.

With over 9,000 courses, nearly 300 majors and certificates and more than 2000 faculty members, UW-Madison graduates alumni who are well-rounded critical thinkers. We aim to teach our students not *what to think* but *how to think*.

Our ability to do so and our ability to attract and retain world class faculty and staff depend upon a thriving--and, yes, sometimes contentious--marketplace of ideas, shaped by our commitment to both academic freedom and freedom of speech.

We deeply value the academic freedom of our faculty to shape our curriculum, both as individual scholars & instructors and working together in curriculum committees at the department, school or college and campus levels.

We likewise deeply value the freedom of speech of everyone on campus -- freedom to express their points of view -- including their opinions about our curriculum, about what and how we teach.

UW-Madison believes that the proposed legislation, even with pending passage of Senate Amendment 1, would have a chilling effect on this environment of academic freedom and freedom of speech on our campus.

In teaching courses on American political thought and political theory more generally, I myself routinely teach materials that a reasonable reader might conclude engage in race and sex stereotyping as defined by the proposed legislation. And so the legislation might make me think twice about assigning texts by authors ranging from Malcolm X to Frederick Douglass to John C. Calhoun, texts that are in fact essential to understanding the American political tradition. Whether teaching those texts or others would run afoul of SB 409 would no doubt be the subject of much argument. Both the texts and the language of SB 409 are ambiguous, subject to contestation. That uncertainty, though, only deepens the problem, as teachers like me cannot be certain what ideas are or are not covered by the legislation. In that context, and whether or not this is the intended effect, the legislation if it became law would make me think twice about those texts. That's the chilling effect, even on a tenured full professor like me.

Much of what I have said thus far mirrors testimony I offered in October before the Assembly Committee on Colleges and Universities, when that committee was considering this legislation. It is also similar to testimony I gave at an informational hearing of this committee on critical race theory, held in September.

I do, though, wish to consider changes to the legislation proposed by Senate Amendment 1. One of those changes replaces the general and vague prohibition on "teaching" race and sex stereotyping with a more precise prohibition on compelling "students to affirm, adopt, or adhere to any of the following tenets [that is, the tenets identified by the legislation as race and sex stereotyping] in their personal capacities as individuals."

Insofar as this amended language expresses opposition to instructors compelling political speech by requiring their students to agree with certain opinions, I very much agree with it, as does the University. Again, we aim to teach students *how* to think, not *what* to think. Political assertion, debate and argument have a place on campus and even in the classroom; mandating that students agree politically with the instructor emphatically does not.

But teaching-as-advocacy is not what happens in our classrooms. If a student feels as if this has happened, they have various remedies: speaking up in class, talking to the instructor, talking to the department chair, talking to the dean's office, dropping a note to the Vice Provost for Teaching and Learning, filing a bias report with the Dean of Students office. Those are all meaningful protections for free speech that work alongside our commitment to academic freedom -- and students do avail themselves of those options.

In this context of a university committed to the free exchange of ideas and responsive to students who report bias or undue advocacy or the compulsion of speech, the current legislation is unnecessary. Insofar as it reflects a legislative interest in regulating the flow of ideas in the classroom--and despite Amendment 1's addition of specific language regarding academic freedom--the legislation's chief impact is likely to be chilling, not liberating.

Amendment 1 also adds a prohibition on "requiring students to attend or participate in a noncredit-earning orientation or training in which the institution adopts the tenets set forth."

We are required by federal law to have our students participate in a variety of trainings, including drug and alcohol abuse prevention and sexual harassment and violence prevention. The trainings we offer in response to these mandates are reviewed on an ongoing basis and updated or changed as necessary. We encourage students with concerns about these trainings to contact University officials, including the Dean of Students office, to share these concerns, which we take seriously and which inform our ongoing review of how the University fulfills its legal obligations.

In that vein, let me close by emphasizing that employees and students -- and every member of the Senate and Assembly, and every citizen -- can call the University to account -- asking us to explain why we're doing what we're doing and helping us to get better at serving our students. That's why I am here before you today. And that's part of the substance of and context for the "fearless sifting and winnowing" in search of the truth that UW-Madison celebrates, and which makes me so very proud to work at this world-class institution. Thank you again for your time and I am open to questions from members of the committee.

NASW WI TESTIMONY IN OPPOSITION TO SENATE BILL 409 PRESENTED ON FEBRUARY 10, 2022
BEFORE THE SENATE COMMITTEE ON UNIVERSITIES AND TECHNICAL COLLEGES

Senator Roth and members of the Senate Committee on Universities and Technical Colleges.

Thank you for the opportunity to testify on Senate Bill 409. On behalf of the National Association of Social Workers, Wisconsin Chapter, I am testifying in opposition to this legislation.

As our state and nation becomes more and more diverse it is critical that our college students learn to understand and appreciate Wisconsin residents from different racial and ethnic backgrounds. Part of this understanding comes from receiving a comprehensive and accurate education on the history of racial and ethnic groups in the United States, including the impact of racism on the African-American, Native American and Latino communities, among others.

As stated so articulately by Madison Urban League CEO Dr. Ruben Anthony at the August 11th hearing before the Senate and Assembly Committees on Education, there is a huge amount of under education on the issue of race that has taken place in the United States. Most high school and college students never learn that African Americans were denied federal home loans and entry into trade professions after World War II and could never accumulate equity that they could pass on to their children and grandchildren. Most high school and college students also have never learned that there were restrictive covenants all over the United States that restricted where African Americans could move and buy homes. The house my parents bought in the 1960s in a suburb of Minneapolis had such a restrictive covenant. These issues account for why African-American college students carry so much more debt than white college students and there is such a huge disparity of income between Caucasian and African-Americans in the country. Most students never learned about the Tulsa massacre that occurred in the 1920's nor the extent of violence against African-Americans in the 20th century. Most students don't know how implicit bias, which most people don't know that they carry, leads to African Americans with similar or higher credentials than Caucasian applicants never getting interviewed for jobs for which they are equally or more qualified than Caucasian applicants. Finally most Caucasians have no understanding of the day to day experiences of African-Americans, Latin(x), Native Americans and other diverse communities in terms of subtle and not so subtle racism.

However instead of encouraging and supporting an honest and comprehensive look at history, this bill would have a chilling effect on college instructors who teach US history or issues related to racial and ethnic minorities. If you read the fine print of this bill you could be seen as violating the law if you discuss such concepts as implicit bias, affirmative action or any topics that could lead to students feeling discomfort, guilt, anguish or other form of psychological distress. By logical extension Germany's teaching of the holocaust would be illegal as it almost certainly has made German students feel discomfort, guilt and anguish about Germany's responsibility for the holocaust

This reason this bill would have a chilling impact on instructors and professors who want to present comprehensive information or engage in a discussion on race is that public colleges and universities would risk losing 10% of state aid if they are seen as violating the vague provisions of this legislation. They would also be subject to civil suits and potentially responsible to pay the attorneys' fees of litigants.

Senate Bill 409 proposes to address a problem that does not exist. There is no evidence that the University of Wisconsin or Technical College system has ever promoted sex stereotyping or teaching their students or employees that one race or sex is better than another race or sex or that one individual is responsible for the acts of other individuals of the same race or sex in the past. There is absolutely no evidence that UW or Technical college faculty or staff are teaching their students or employees to hate each other or to hate white people.

I have heard testimony on other bills related to this topic that we need this legislation to prevent indoctrination of students and the promotion of so-called leftist ideology. First of all this is not Communist China which is currently trying to indoctrinate or brainwash the Uyghur people or the Soviet Union, which controlled of all aspects of residents lives. This is the United States of America, which has free speech, a free press and a multitude of sources of information available to any resident. We need to give our college student some credit for being able to sort through all the different information and points of view they receive at college, the media, from their friends and family.

On a personal note, throughout my 29 years with NASW WI, I have served as a frequent guest lecturer at every one of the 16 social work programs in Wisconsin. I have gotten to know almost all the policy professors at these programs and I have never experienced one who was trying to force students into an ideological point of view. All the professors I have worked with have encouraged the expression of different points of view in the classroom. And because we have social work programs in every region of the state we do hear different points of view from the students. In addition, for over 20 years I served as a part-time social work policy instructor and I have always encouraged students to express their point of view and ask questions.

If there are any college instructors or professors that don't encourage and support robust discussion of issues in the classroom and are heavy handed with their students that should be dealt with by Department Chair and the University, not by legislation that would have a terrible impact on college education in Wisconsin.

Again we need to prepare our young people to work and serve as leaders in an increasingly diverse society by fully educating them, not by suppressing information and imposing speech codes.

Please oppose this passage of this bill.

I would be happy to answer any questions

Marc Herstand, MSW CISW
Executive Director
National Association of Social Workers, Wisconsin Chapter

THE AFRICAN AMERICAN/JEWISH FRIENDSHIP GROUP, INC.
5010 MILWARD DRIVE
MADISON, WI 53711

February 8, 2022

State Senator Roger Roth,

Chair, Senate Committee on Universities and Technical Colleges

Dear State Senator Roth and Committee Members:

We are submitting our views to you as a civic community group in the State of Wisconsin and we have approximately 72 active members.

We write you to vigorously oppose State Senate Bill 409. State Senate Bill 409 is an attempt to ban the training of University and College teachers from teaching the true history of our country. Trying to ban anti-racist teaching is like trying to ban University teachers from teaching the Holocaust. What State Senate bill 409 tries to do is antithetical to the action by the State Senate to teach the Holocaust.

That part of our American History that involves racist activities cannot be obliterated simply on a political whim of its authors. All of our history, the good, the bad and the ugly is part of any comprehensive and truthful education. Students are not being harmed by learning the truth of our country's history. Quite to the contrary, the Bill, by obliterating a part of what has happened, would do a tremendous disservice to our students. We want our students to have the essential knowledge to navigate a diverse, multicultural society with openness and respect for all.

Let us examine Bill 409 in pertinent part. It states:

Section 1. 36.42 of the statutes is created to read:

236.42 Race and sex stereotyping. (1) Instruction. The board shall prohibit institutions from allowing an instructor to teach race or sex stereotyping, including any of the following concepts, to students in any course or as part of any curriculum:

(a) One race or sex is inherently superior to another race or sex.

(b) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

(c) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.

(d) Individuals of one race or sex are not able to and should not attempt to treat others without respect to race or sex.

(e) An individual's moral character is necessarily determined by the individual's race or sex.

(f) An individual, by virtue of the individual's race or sex, bears responsibility for acts committed in the past by other individuals of the same race or sex.

(g) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of the individual's race or sex.

We have educators in our Friendship Group who know that no University of Wisconsin campus or technical college teaches racial or gender stereotyping. Since stereotyping is such a central part of this bill, we need to understand what the word, stereotyping, means. It is defined in Miriam Webster's Collegiate Dictionary as " "something conforming to a fixed or general pattern; especially : a standardized mental picture that is held in common by members of a group and that represents an oversimplified opinion, prejudiced attitude, or uncritical judgment."

The State Senate has no evidence that teachers in the University of Wisconsin System or technical colleges are teaching race and sex stereotyping, because there is no such practice, pattern of widespread instances or any instances of such stereotyping. In order for a teacher to engage in racial or sex stereotyping, the teacher would need to promote the ignorant idea that all people of one race or sex have certain inherent characteristics. Show the People of the State of Wisconsin what instances of this type of teaching exists in the State or anywhere in our country. Senate bill 409 is a solution for a problem that does not exist anywhere in the State, and therefore, Senate Bill 409 should be soundly defeated.

In fact, students want to learn the whole history of our country and of the world so they can improve upon those events of which we have no right to be proud. Maturity grows with knowing the truth, taking stock of it and trying not to repeat the same mistakes.

We need to give our teachers the freedom to apply their skills to teach the truth about race and gender discrimination by simply setting forth the historical facts. A society gains nothing by creating a student who is ignorant of the honest history of our country or of the world.

Respectfully submitted,

Members of the African American/Jewish Friendship Group

William Greer and Peggy Sleeper, Jamie Murray-Branch, Janice Gratch and Stephen Wilensky, Martha White, Louise Goldstein, Roseanne Clark, Ken Felz, Gerri Gurman, Marc Herstand, Sheila and Marc Cohen, Jim Mackman, Gloria Hawkins, JP Olson, Cheryl Manuel, Brenda Brown, Mary Brown, Jerry and Merle Sternberg, Corliss and Bill Karasov, Bruce Thomadsen, Ann Imig, Richard Harris, Art and Dawn Shegoni as representatives of the Friendship Group.