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# AMANDA NEDWESKI

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STATE REPRESENTATIVE • 61<sup>ST</sup> ASSEMBLY DISTRICT

October 26, 2023  
Testimony on AB 553

Thank you, Chairman Murphy and fellow members of the Assembly Committee on Colleges and Universities for giving AB 553 a public hearing today.

Without freedom of thought, speech, and expression, we risk the death of innovation and independence.

Assembly Bill 553 seeks to establish freedom of expression and academic freedom standards on University of Wisconsin campuses and technical colleges across the state. It also outlines due process standards and penalties for those who violate these standards. This legislation enshrines the principles of University of Wisconsin System Regent Policy 4-21 into law for the purpose of clarifying and protecting the First Amendment rights of students, staff, and visitors on UW campuses into the future.

Last year, the University of Wisconsin conducted a system-wide survey that sought “to explore and describe students’ knowledge of First Amendment rights connected to free speech, as well as their attitudes about viewpoint diversity and their experiences with free expression and self-censorship.”<sup>1</sup> Initiated by UW-Stout faculty member, Timothy Shiell, this comprehensive survey of 10,500 respondents revealed that a significant number of UW students perceive their viewpoints to be unwelcome by the institution and by their peers. In response to the survey results, as you all know, the Assembly Committee on Colleges and Universities held a series of hearings to further explore real human experiences behind the survey data. This legislation is in response to serious concerns raised by both testimony and by the survey results regarding a perceived lack of support for the free exchange of ideas on campuses, self-censorship, and a culture of intolerance for conflicting ideologies.

Ongoing Gallup polling continues to illustrate a sharp decline in the perceived value of higher education among Americans. This directly correlates to the downward trend in enrollment among almost all UW schools except UW Madison. While there are many contributing factors to this pattern, the stark difference between Democrats’ confidence level in higher education (which is 59% positive) and that of Republicans (which is only 19% positive) and Independents’ confidence (measured at 32% positive) is also reflected in the UW free speech survey results. The lack of intellectual diversity and tolerance for opposing viewpoints on UW campuses is directly affecting enrollment. Henceforth, the ability of UW schools to maintain a tuition revenue source that would sustain their operation at current levels of programming is negatively impacted by the perceived lack of support for free speech for ALL people, not just some, on campuses.

Trends in behavior such as the increased use of what is known as the “heckler’s veto” on campuses across the country are grabbing headlines and turning many prospective students off to the idea of attending college. For example, just recently, a UW Madison online event titled “Black Conservatism: The Past, Present, and Future” was ultimately shut down when protesters exposed themselves, performed lewd acts on camera, and overtook the audio and chat with

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<sup>1</sup> University of Wisconsin Student Views on Freedom of Speech: Summary of Survey Responses. P. 2

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vulgarity on the Zoom platform in an attempt to derail the discussion. Unfortunately, they got what they wanted. The virtual portion of the event had to be shut down.

The use of the “disinvitation” tactic to suppress and prevent speech is also increasing on campuses across the country. Our own committee chair, Rep. Murphy, was scheduled to participate in a symposium to be held at the Medical College of Wisconsin this past spring. Panelists planned to discuss the effectiveness of Diversity, Equity, and Inclusion programming in post-secondary institutions. Students and faculty who disagreed with the idea of even having this conversation pressured the administration to cancel the event. They caved to the mob, and Rep. Murphy and the other speakers were disinvited.

While the Universities of Wisconsin have adopted Regent Policy 4-21, it’s sometimes difficult for students and the community to observe the enforcement of this policy. When conservative commentator Matt Walsh was invited to speak at UW Madison last year, vandals took to campus property in protest, causing significant damage. As of this week, no one has been charged for these crimes. What good is having a policy to protect free speech, if there are no consequences when there are violations? People see this, and they lose confidence in the administration’s commitment to protecting their free speech rights. That has a negative ripple effect on the perception of campus culture by students who may have been considering attending a UW school. The due process framework and penalty structures outlined in AB 553 are the added teeth that policy 4-21 needs to be effective.

My last example comes directly from a constituent this very week. The student survey on free speech revealed that an alarming percent of students on our UW campuses feel the need to self-censor, both in classrooms and in informal situations, for fear of academic or social retribution. Many don’t express their authentic thoughts and ideas because they perceive that it may affect their grades or they worry about being socially cancelled. The parent of a UW Law student contacted me two days ago to express frustration and disappointment over social media posts made by certain faculty members that the parent found particularly abhorrent.

While I explained policy 4-21 and supported the right of faculty to express their ideas and opinions on the controversial subject matter, I empathized that her daughter apparently felt she needs to “just keep her head down and stay quiet” in this professor’s class. She said that her participation in this class includes “just saying or writing what the instructor wants to hear. If you disagree with her, it could mean your whole law school experience goes down the drain.” Supporting people’s right to freely express opposing viewpoints is only fair and just when all parties involved perceive a culture in which their viewpoints are welcome. Without that, the scales are tipped in favor of some, while the speech of others is chilled and suppressed, like that of this student.

AB 553 is not the sole answer to the increasing challenges to free speech on campuses. Effective responses require a commitment to both policies and to fostering an academic culture that’s not afraid to tackle difficult subjects. We must be committed to educating students on the nuances of free speech, to providing support for opposing views, and to creating environments that are conducive to a respectful, productive, and meaningful exchange of ideas. Policy is only part of that picture.

Especially in this time of workforce crisis, Wisconsin cannot afford to lose talented students to out-of-state schools simply because the UW System has become too ideologically

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biased. Though AB 553 is not the singular solution, it can work as a tool that aims to attract students and faculty from diverse backgrounds, cultures, and ideologies who want to come to our universities and technical colleges to respectfully exchange ideas, to challenge the status quo, and ultimately, to innovate together toward a prosperous future for Wisconsin.





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# RACHAEL A. CABRAL-GUEVARA

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STATE SENATOR • 19<sup>TH</sup> SENATE DISTRICT

## Assembly Bill 553

Testimony before the Assembly Committee on Colleges and Universities

Michael Moscicke, Office of Senator Rachael Cabral-Guevara

October 26, 2023

Thank you for allowing me to testify in place of Senator Cabral-Guevara. She could not join you today due to a number of commitments to constituents in her district, but she asked me to thank you for taking up this important bill.

I'm Michael Moscicke and I serve as Senator Cabral-Guevara's policy director. Both the senator and I previously worked for UW System. Rachael was a lecturer at the UW-Oshkosh College of Nursing for over a decade and I served as a government relations advisor at UW-Madison for five years, and was honored to serve as the president of the campus chapter of the American Association of University Professors in my last year. I also previously worked for Rep. Murphy for six years where I advised him on university oversight issues.

Our background in higher education make the issues addressed in the bill very personal. We have both personally encountered situations where students, faculty, and staff were threatened, intimidated, or punished for expressing speech that administrators found offensive, or more often, speech that put administrators in politically difficult positions in which they had to choose between upholding the First Amendment or angering a vocal but small group of constituents. Unfortunately, administrators all too often choose the easy path and silence speech that others have complained about. The problem is that this should not be the easy path.

It's unfortunate that there is little to no repercussion for colleges that violate First Amendment rights, fortunately, we have a bill that will change this. Assembly bill 553 makes those who hold the power responsible for upholding constitutional rights, instead of putting the burden on those whose rights are violated.

The bill outlines specific First Amendment, academic freedom, and due process rights that have become well defined by our federal court system. None of these rights are new under the law; however, all have been violated by our public colleges due to a poor understanding or lack of accountability by our campus administrators. The purpose of the law is not to punish our institutions, it's to ensure they are following what is already the law.

The enforcement mechanisms are intended to put pressure on campus administrators to uphold the law. These enforcement tools mirror those used by the U.S. Department of Education that have been utilized to implement Title IX and other anti-discrimination laws. While these tools may seem scary, when lawsuits and financial aid packages are on the line, we have seen that administrators finally take notice and begin to do what they should have been doing all along—uphold the U.S. Constitution.



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# RACHAEL A. CABRAL-GUEVARA

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STATE SENATOR • 19<sup>TH</sup> SENATE DISTRICT

## Assembly Bill 553

### Testimony before the Assembly Committee on Colleges and Universities

Senator Rachael Cabral-Guevara

October 26, 2023

Thank you Chairman Murphy and committee members for allowing me to testify on Assembly Bill 553 today, a clear cut bill determined to defend free speech on the academic level.

Academic institutions are supposed to be bastions of intellectual diversity and independent thought. However, as we all know, campus administrators far too often decide to censor or penalize speech that does not conform to their or their institution's leanings. The purpose of this bill is to curtail this restriction of free speech at universities across the state. This bill would prohibit Universities of Wisconsin and Wisconsin Technical College System campuses from restricting constitutionally protected free speech, sanctioning groups or individuals for speech unless it meets a federal standard of harassment, or limiting freedom of expression to designated "free speech zones." Furthermore, this bill requires institutions to designate all public areas as public forum and provide students and employees with instruction about First Amendment rights and academic freedom.

The rights protected by this bill are critical to the foundation of a liberal arts education and should be supported without reserve by everyone in this building. A free society cannot survive if speech is censored by government leaders; this is even more critical when those leaders are running our public universities and colleges. Restricting speech because it conflicts with political views in an academic setting is inexcusable and cannot be tolerated.

Thank you again for allowing me to testify on this important piece of legislation. I hope you consider supporting Wisconsin's college students and protecting these critical rights by voting in favor of AB 553.





DATE: October 26, 2023

TO: Members of the Assembly Committee on Colleges and Universities

FROM: Jeff Buhrandt, Vice President of the Universities of Wisconsin Office of University Relations

RE: Testimony on Assembly Bill 553

Thank you, Chair Murphy and committee members, for providing the Universities of Wisconsin an opportunity to testify on Assembly Bill 553.

Academic freedom and freedom of expression are not only rights enshrined to individuals in the U.S. Constitution, but are fundamental to the vitality of our institutions of higher learning. As such, the Universities of Wisconsin Board of Regents (BOR) has a longstanding record of support for academic freedom and freedom of expression. This longstanding record goes all the way back to 1894, when 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. 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 and clear statement about the importance of freedom of speech and expression at the Universities of Wisconsin.

The BOR has reaffirmed its dedication to academic freedom and freedom of expression many times in the last 129 years. Today, our campuses are governed by Regent Policy Document (RPD) 4-21, "Commitment to Academic Freedom and Freedom of Expression", adopted on October 6, 2017. RPD 4-21 outlines the commitment to academic freedom, provides procedures for violations to this policy, and requires our universities to annually provide notice of this policy to students and employees—in addition to providing this information to incoming freshman and transfer students. RPD 4-21 also requires the Universities of Wisconsin to provide a written report to the BOR describing the implementation of the policy, which includes a description of efforts to support academic freedom and freedom of expression and a report of policy violations.

The most recent annual report was presented to the BOR on November 8, 2022. The report, compiled by the Universities of Wisconsin Office of Compliance and Integrity, describes activities implemented by the Universities of Wisconsin between July 1, 2021, and June 30, 2022. The annual report indicated that two violations of expressive freedoms were reported at our universities during the academic year. Both incidents were investigated and handled accordingly. The report also outlines the robust list of

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activities provided by all 13 universities. Further, it highlights the work of UW-Eau Claire's Menard Center for Constitutional Studies (MCCS), UW-La Crosse's Joint Committee on Free Speech Promotion, UW Stout's Menard Center for Constitutional Studies (MCCSII), and UW-Madison's Tommy G. Thompson Center, among others. A copy of the most recent report will be shared with committee members. The 2023 report is currently scheduled to be provided to the BOR during the December meeting and we will ensure this committee receives a copy as well.

Additionally, Universities of Wisconsin President Jay Rothman has made free expression and civil discourse a priority since he took office in June of 2022. The 2023-28 Universities of Wisconsin Strategic plan spearheaded by President Rothman, includes a focus on fostering civic engagement and civil discourse. This strategic point has become a bedrock of President Rothman's tenure. Over the last year and a half, President Rothman has engaged in numerous free speech panels with constitutional experts and legislators, has held discussions with students on the topic of free speech across our campuses, and he authorized a systemwide Freedom of Speech survey. The goal of the free speech survey was to explore Universities of Wisconsin students' knowledge of their First Amendment rights and attitudes towards viewpoint diversity. President Rothman and the BOR have taken the survey's findings seriously and continue to look at ways we can improve, such as student body awareness of the First Amendment. President Rothman and the BOR recognize the importance of free speech and viewpoint diversity on campus, and will continue to make this topic a priority for the Universities of Wisconsin.

The Universities of Wisconsin share the bill's authors' commitment to freedom of expression on our campuses. However, we believe that our adherence to constitutional law and current board policy best serves to uphold this commitment. Many of the requirements of AB 553 are already in practice by the Universities in Wisconsin in RPD 4-21. Adding these requirements to statute would remove the BOR's flexibility in ensuring that free speech is protected on campuses; and the penalties prescribed in the bill would adversely impact students' financial aid for actions not of their accord.

The Universities of Wisconsin and the BOR have a robust, longstanding commitment to academic freedom and freedom of expression. Our current policy recognizes that each institution has a "solemn responsibility not only to promote lively and fearless exploration, deliberation, and debate of ideas, but also to protect those freedoms when others attempt to restrict them." We remain committed to ensuring that all members of our institutions can live, work, and learn in an environment that actively promotes civility, academic freedom, and rights to freedom of expression.

Thank you again for the opportunity to provide testimony on AB 553.

## FREE SPEECH FOR CAMPUS

Chairman Murphy and members of the Assembly Committee on Colleges and Universities, thanks for allowing me to testify. My name is Tim Higgins, and I am speaking today on behalf of Free Speech For Campus, a Wisconsin corporation with tax-exempt status, founded in 2019. Free Speech For Campus is a grass-roots movement that brings together concerned citizens of Wisconsin to promote and protect free speech and due process rights on our college campuses.

This hearing and this bill, AB 553, represent a milestone for academic freedom, freedom of expression and due process on our state university campuses. You should be proud of yourselves because this excellent legislation is the fruit of a responsible, extensive, and transparent deliberative process.

The process began in the spring of 2022 when Professor Tim Shiell, Director of the Menard Center for the Study of Institutions and Innovation (MCSII) agreed to bring a research group together to create a survey of UW System students probing their understanding of and attitude toward First Amendment issues. Soon after taking office System President, Jay Rothman, endorsed the survey and provided System resources to help administer it. Your committee has heard testimony that the survey was an academically rigorous instrument designed to return unbiased data, and that student participation considerably exceeded the threshold for statistical validity.

Among its many findings the survey revealed that there are very different college experiences based on each student's characteristics. Some of the



## FREE SPEECH FOR CAMPUS

most alarming survey results involved whether students ever felt “pressured by an instructor to agree with a specific political or ideological view being expressed in class.” 61% of Republican students reported feeling such classroom pressure. And almost half of that group felt pressured “often” or “extremely often.”

Democratic and liberal students, however, experience something else entirely. Only 19.7% of Democratic students reported ever feeling pressure to agree with the instructor, and only 3% felt pressured to agree “often” or “extremely often.”

The survey also showed that many students aren’t willing to even entertain viewpoints that don’t agree with their own. A substantial minority, in contravention of the First Amendment, expressed a willingness to require a university to disinvite a speaker who has views that could offend their peers.

Considering this information and other concerns raised by the survey, Chairman Murphy initiated the next step in the process. With the approval of Speaker Robin Vos, Murphy organized a series of informational hearings by your committee. Those hearings were held in April and May of this year.

During those four hearings, you listened to more than twenty hours of testimony from representatives of several national policy organizations, UW students, faculty both active and emeritus, Chancellors of several campuses, and President Rothman.

## FREE SPEECH FOR CAMPUS

You heard from Professor Ryan Owens that:

“Higher education today suffers from an ideological monopoly. This monopoly threatens students and threatens higher education itself. It leads to politicized education, poor teaching, and a loss of legitimacy. Those in charge of higher education must undertake some soul searching and engage in reforms.”

He said, “The lopsided nature of higher education also has led to poor collegiate experiences for students and a lack of learning, all of which harm the state of Wisconsin.”

President Rothman testified that, “Last fall we conducted a survey of student attitudes toward free speech. The response was strong. More than 10,000 undergraduate students took the survey, for a response rate of more than 12 percent. While no survey is perfect, this one provided some valid insight into what is happening on our campuses and identified opportunities for us to improve.”

He continued, “The vast majority of our students say our faculty are doing a good job in facilitating a robust exchange of ideas in the classroom. Yet many students – from all political persuasions but more so among conservatives – say they don’t feel comfortable speaking up in class. That’s mostly because they worry about what other students will think. But some worry about what the faculty will think – or even that their grade might be affected.”

## FREE SPEECH FOR CAMPUS

Addressing the question of what can be done to improve the climate for free expression on our UW campuses, several speakers urged the Committee to pursue a bifurcated strategy. Dr. Jacqueline Pfeffer Merrill, Director of the Campus Free Expression Project of the Bipartisan Policy Center stated that, “Free expression is, at its root, a matter of culture, and campus culture can only be established on campus, by administrative leaders, faculty, staff, and students.”

She noted, though, that there is a role for the legislature, “To the extent that the legislature considers acting on issues of campus free expression, it should affirm protections for free expression well established in case law, affirm the academic freedom of faculty to research, teach, and express opinions on matters of public concern, affirm that no one should be compelled to avow or disavow any particular viewpoint, principle, or ideology, and support university and system-led free expression, civil dialogue, and civics initiatives.”

When asked how legislators could help, Joe Cohn, Legislative and Policy Director for the Foundation for Individual Rights and Expression, responded, “Legislate with evergreen principles. Don’t try to ban ideas from college classrooms and put affirmative academic freedom protections in place – no idea will ever be banned.”

The bill before you, AB 553 rigorously adheres to Dr. Merrill and Mr. Cohn’s advice. It is the appropriate legislative framework within which the UW System should be working to restore a campus culture that values academic freedom, encourages free expression, and seeks to expand



## FREE SPEECH FOR CAMPUS

viewpoint diversity. For those reasons I urge you to support AB 553 and encourage your colleagues to do so, too.

However, before I conclude I note that in the opinions of those experts who testified, when it comes to addressing the challenges to intellectual diversity on our campuses, yours is an important, but secondary, role. The legislature, though, created the university system, and, thus, has an obligation to hold it accountable on behalf of your constituents, the tax and tuition payers of Wisconsin, for fulfilling its public mission – educating citizens who can think critically, communicate well, and solve problems in their economic, social, and civic roles.

Free Speech For Campus has been optimistic about the commitment of President Rothman to “championing the democratic principles of free expression, academic freedom, and civil discourse” – one of the pillars of his strategic plan. Last November he announced the establishment of the Wisconsin Institute for Citizenship and Civil Dialogue (WICCD) to “help coordinate our numerous academic centers that focus on the Constitution and public affairs as a way of elevating, enhancing and promoting their existing excellent programming and research.” There is cause for optimism when the chief administrative leader of the System agrees that campus culture needs to be changed – and creates a vehicle for making that happen. Unfortunately, it has been nearly a year since the President’s announcement and WICCD has yet to be established. We urge President Rothman to fulfill his promise and we ask you to remain vigilant. Thanks again for allowing me to testify.



Dr. Morna K. Foy, President

4622 University Avenue  
PO Box 7874  
Madison, Wisconsin 53707-7874  
608.266.1207 | Wisconsin Relay System: 711  
info@wtcsystem.edu | www.wtcsystem.edu

**Assembly Bill 553**  
**Committee on Colleges and Universities**  
**October 26, 2023**

Chairman Murphy and Members of the Committee:

Thank you for the opportunity to provide input on AB 553. The Wisconsin Technical College System (WTCS) supports freedom of expression. We consider it a core responsibility of public institutions generally, and higher education institutions specifically, to protect free speech and to promote the free expression of diverse opinions and discourse. For this reason, **WTCS does not oppose the free speech and academic freedom requirements included in AB 553, including the survey, reporting, and training requirements.** However, the references to free speech and academic freedom standards; civil causes of action for violation of these standards; disciplinary proceedings requirements; and penalties impacting the Wisconsin grant funding allocation provided for in the bill will have serious negative consequences for WTCS colleges and students. Therefore, we cannot support AB 553 in its current form.

The bill establishes due process guarantees and requirements related to disciplinary proceedings or investigations. While WTCS supports due process rights for students, employees, and organizations, the provisions within the bill establish a standard that resembles a judicial body, a role for which WTCS is not equipped. Compliance with the requirements under the bill will require significant legal expertise and will therefore be administratively burdensome – and costly – for technical colleges to implement. As an example, the bill prohibits overlapping administrative or adjudicative roles for disciplinary proceedings and specifies that an individual may not serve in more than one of six identified roles. As a result of this provision, technical colleges will be required to supply multiple individuals with sufficient legal expertise to serve in these roles. As relatively small institutions that operate on lean administrative budgets, many WTCS colleges rely upon staff that perform multiple functions. The requirements under the bill significantly expand the scope and administrative costs associated with due process functions.

In addition, the bill prohibits Wisconsin grant allocations to technical colleges that violate any of the due process provisions more than once in 10 years for a period of at least one fiscal year. The violation resulting in this Wisconsin grant penalty may be found by a state or federal court; the Higher Educational Aids Board (HEAB); or a legislative standing committee having jurisdiction over matters relating to higher education. These provisions raise process and implementation concerns for WTCS, specifically, the following:

- What criteria and process will be used by HEAB or the Legislative committees to determine whether a violation of the due process provisions has occurred?
- How, or could, a determination of a violation by HEAB or the Legislative committee be appealed?

- Would the additional administrative responsibilities affect HEAB's award and distribution process and timelines?
- Would the penalties disproportionately impact smaller, rural institutions and thus the communities they serve?

In addition to these important process and implementation questions and concerns, the WTCS opposes the use of student financial aid as a means to ensure institutional compliance with state and federal law. As open access institutions, WTCS serves many students with significant financial need. The neediest WTCS students – those eligible for need-based aid – should not suffer any delay or complication in their Wisconsin grant awards due to institutional behavior.

WTCS is committed to providing and protecting free speech for our students and employees and providing transparency to the Legislature and the public in our efforts to do so. However, the provisions related to free speech and academic freedom standards; civil causes of action for violation of these standards; disciplinary proceedings requirements; and penalties impacting the Wisconsin grant funding allocation will negatively impact college operations and student access to technical college programs. We welcome the opportunity to work with the Legislature to address these concerns. Thank you for your consideration.



October 25, 2023

Dear Representative Nedweski,

I am writing in support of **2023 ASSEMBLY BILL 553**. Recently I have become increasingly concerned about the lack of civility on Wisconsin college campuses, and on the UW Madison campus especially, between those of differing viewpoints. Unfortunately, a majority of the efforts to stifle free speech involve the push to hinder expression of conservative ideals of both students and faculty. Colleges and universities across the country have a history of trying to stop conservative voices on campuses and UW Madison is no different. Just last year, a popular conservative speaker and his attendees at UW Madison were met, not just with "peaceful protests," but with vandalism and other threatening behavior. It is clear by the significant number of registered attendees at these events that the students and community DO want to hear conservative points of view and they should be allowed to do so without fear of reprisal.

Students should also be allowed, and even encouraged, to express their points of view in the classroom without fear of reprisal, and faculty should be allowed academic freedom as well. It is clear from the responses to a recent UW system student survey published earlier this year, that most conservative students do not feel welcome to express conservative ideals or points of view on UW system campuses whether it is in the classroom or at an event. The comparison of conservative students' responses to students who self-identified as liberal was shocking. I was especially saddened by the responses to the questions regarding "the degree to which students think university administrators should ban the expression of views they feel cause harm," and "students' reports of feeling pressured by an instructor at their current university, either in class or on an assignment, to agree with a specific political or ideological view being expressed in class". It is, however, clear that the conservative students on our WI system campuses do understand and value free speech and academic freedom and do want to feel free to express their ideas in the classroom just like their professors, and that should be protected. In conclusion, there needs to be a mechanism which holds our UW systems schools responsible for protecting academic freedom and free speech on our campuses and this bill is one step in what may be a very long process towards that goal. Thank you for sponsoring this bill.

Sincerely,



Mary Verzal