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MEMORANDUM

TO: College Deans
Chairs and Directors

FROM: Michele Hawkins, Interim Provost and
Vice President Academic Affairs

DATE August 1, 2022

SUBJECT: Guidance on House Bill 7

A handwritten signature in black ink, appearing to read 'Michele Hawkins', is written over the printed name in the 'FROM' field.

A recently enacted Florida law, known as [House Bill 7 or HB 7](#), amends the Florida Civil Rights Act and the Florida Educational Equity Act by setting parameters on how a University discusses certain concepts when providing instruction or training to students or employees. The law states that subjecting any student or employee to training or instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe any of the concepts listed below shall constitute discrimination on the basis of race, color, national origin, or sex:

- Members of one race, color, national origin, or sex are morally superior to members of another race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
- A person's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, national origin, or sex.
- Members of one race, color, national origin, or sex cannot and should not attempt to treat others without respect to race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, national origin, or sex.
- A person, by virtue of his or her race, color, national origin, or sex should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
- A person, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the person played no part, committed in the past by other members of the same race, color, national origin, or sex.

- Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, national origin, or sex to oppress members of another race, color, national origin, or sex.

The law clearly states that it does not prohibit discussion of the concepts listed above as part of a larger course of training or instruction, provided such training or instruction is given in an objective manner without endorsement of the concepts. This is important. While there may be significant public debate surrounding the concepts listed in the statute, presentation of those concepts within the academic context is not prohibited, so long as the instruction is provided in an objective manner.

Objectivity is a fundamental principle of higher education, as reflected in the AAUP's 1940 Statement of Principles on Academic Freedom and Tenure. According to the AAUP, as scholars and educational officers, faculty "should remember that the public may judge their profession and their institution by their utterances," and therefore, faculty "should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others," and when speaking in the classroom, "should be careful not to introduce into their teaching controversial matter which has no relation to the subject." In its 2007 report on Freedom in the Classroom, the AAUP addressed the concept of "indoctrination" in higher education, stating that it "occurs whenever an instructor insists that students accept *as truth* propositions that are in fact professionally contestable." As summarized by the AAUP, "if an instructor advances such propositions dogmatically, without allowing students to challenge their validity or advance alternative understandings, the instructor stands guilty of indoctrination."

FAU's commitment to academic objectivity was recently reaffirmed in the 2022-25 Collective Bargaining Agreement (CBA), in which the administration and faculty agreed that "the objective and skillful exposition of subject matter, including the acknowledgment of a variety of scholarly opinions, is the duty of every employee." The CBA also states that the principles of academic freedom and academic responsibility are "essential to the full development of a true university and apply to teaching, research/creative activities, and service." These principles should continue to inform FAU's approach to its academic and instructional mission and its compliance with state law.

While the principle of objectivity is historically fundamental to the profession of higher education, and therefore second nature to most experienced faculty members, all faculty must be aware of the significant new penalties that apply to violations of the new law. Institutions at which classroom instruction is found to violate the law – potentially even in a single instance -- are ineligible to receive performance funding for the next fiscal year. For context, FAU received approximately \$19,000,000 in performance funding for the current fiscal year. A loss of funding of this magnitude would dramatically impact FAU's fiscal viability.

Violation of the law could also constitute an unlawful employment practice, subjecting FAU to additional legal liability. The new law prohibits subjecting any individual, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to

training, instruction, or any other *required* activity that espouses, promotes, advances, inculcates, or compels such individual to believe any of the concepts enumerated above.

This guidance is meant to assist you in understanding and complying with the new statutory requirements.

INSTRUCTION AND TRAINING FAQ

What does the statute require?

Effective July 1, 2022, a new Florida statute prohibits subjecting students or employees to instruction or training that advances, promotes, or compels the individual to believe that a person, due to his or her race, color, national origin, or sex: (1) is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (2) is personally responsible for, or must feel guilt because of, past actions of others who are of the same race, color, national origin, or sex; (3) is morally superior to members of other groups, or has a pre-determined moral character or status as either privileged or oppressed; (4) cannot consider others without regard to their race, color, national origin, or sex; (5) should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion; or (6) creates or embraces virtues like merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness to oppress members of another race, color, national origin, or sex ([HB 7](#)).

Does this law prohibit discussion of controversial topics related to race, sex, gender, or national origin?

No. It is important to remember that under existing Florida law, the University may not shield students, faculty, or staff from expressive activities. Shielding is defined as limiting access to, or observation of, ideas and opinions that students, faculty or staff may find uncomfortable, unwelcome, disagreeable, or offensive. As a result, academic instruction about controversial topics, including but not limited to race, color, national origin, and sex, remains permissible as long as the instruction is “objective” and does not “endorse” the concepts proscribed by the law. The law does not define or give examples of instruction that would be considered “objective” or “without endorsement,” but a balanced and scholarly approach to even the most controversial subjects in an academic instructional setting without endorsement of any of the proscribed concepts, would be consistent with Florida law and generally accepted principles of academic freedom and responsibility.

When discussing controversial topics, what should I avoid?

Educators must always be sensitive to the potential for perception of the academic process as “indoctrination” rather than education. Therefore, objective and skillful exposition of subject matter, including the acknowledgment and critique of a variety of scholarly methodologies and opinions, is the duty of every FAU employee. Consistent with the statute, faculty should avoid blaming students for perceived historical injustices, implying that students are personally

responsible for events that occurred in the past, telling students that they should feel guilty for those events, or conditioning students' academic success on acceptance of any particular "belief."

Should I revise my course materials?

There are always practical considerations that should be taken when publishing course materials. It is prudent to consider how the community may perceive a particular course or program based on its title or description, realizing that such perceptions may be completely unrelated to the actual academic content. As stated in the AAUP's 1940 Statement of Principles on Academic Freedom and Tenure, the public may judge our profession and our institution by our utterances, and we must be sensitive to the wide range of values and experiences that informs the broader community when they confront concepts and ideas that are regularly debated on a university campus. Such sensitivity is particularly important for faculty like us who have the honor of teaching in a public university, where a strong connection to our community is an indispensable core of our mission. So let us carefully review our course materials with the following questions in mind: Does the title of the course imply that the material is not being taught in an *objective manner without endorsement*? Does the material give the impression that dissent or alternative viewpoints will not be tolerated? Now is the time to review instructional materials to ensure that they demonstrate objectivity and encourage varied, yet well-supported, intellectual viewpoints.

What about workforce training?

Florida law does not prohibit workforce training that promotes diversity and inclusivity, but there are restrictions on the content, including trainings that require employees to believe the proscribed concepts. If challenged, FAU would have to demonstrate that it presented the concepts objectively and without endorsement during the training. The same dramatic financial penalties that could apply to a classroom violation of the law could also apply to workforce training. While we may continue to offer workforce training related to diversity, departments should document their compliance efforts and carefully review employment training materials to ensure that they reflect a balanced and neutral approach. As described below, a committee is being formed to assist departments with questions that may arise in their documentation and review efforts.

What happens if a complaint is filed against a staff or faculty member based on an alleged violation of HB 7?

Any complaints of a violation of the law's provisions will be handled in accordance with University policies, procedures, and regulations governing investigations, due process, and progressive discipline, including any applicable collective bargaining agreements.

Is there language I should include in my syllabus?

In previous guidance on Student Recordings of Class Lectures, we provided sample language that may be helpful in courses where debate and/or the Socratic method are incorporated into class lectures. The following is a revised and updated version of that language, consistent with this discussion of HB 7:

“One of the objectives of this course is to facilitate critical thinking and debate around topics, theories, and concepts where disagreement is not only anticipated, but encouraged. The ability to think critically, express your ideas clearly, and respond to the professor and other students civilly are the keystones of the academic experience. In this course, the professor will provide instruction in an objective manner and will remain open to a wide variety of viewpoints, so long as those viewpoints are evidence-based and presented in a respectful way. During class, the professor may take positions and make statements for the sole purpose of accomplishing an academic objective or enhancing the learning environment. Additionally, the adoption of class materials for this course does not imply an endorsement of the full content of those materials or the positions of the authors of those materials. Often the professor will provide materials as a point of departure for critical thinking and debate. Students should keep in mind that the ideas presented or discussed during class may not necessarily reflect the professor’s personal beliefs or opinions on the subject matter.”

Where can I go to discuss my instructional material or workplace training?

The University Provost is establishing a committee to review and provide feedback on questions related to student and employment instruction and training. The committee may be comprised of representatives from the faculty, Academic Affairs, Human Resources, and the FAU Compliance Office, and will be chaired by a representative from the Provost’s Office. The committee may consult with additional subject matter experts as needed. Further details regarding the committee and how to seek its assistance will be forthcoming soon.