

Representative Matt Hall, Chair  
House Oversight Committee  
Michigan House of Representatives  
The Michigan Capitol  
Lansing, Michigan

SUBJECT: House Bills 4435 & 4436

Dear Chairman Hall and all Members of the Oversight Committee:

I would like to thank Chairman Hall and this committee for taking up legislation on the issue of campus free speech and for allowing time for a student's perspective.

My name is Evan Oudekerk and I am student at Western Michigan University. Throughout my time at WMU, I've been involved in multiple registered student organizations, most of which are political in nature. I am also a State Chair with the student activism organization Young Americans for Liberty, where I've worked on college campuses across Michigan to advance the ideas of individual freedom and encourage student political engagement. On WMU's campus, I've organized and participated in over a dozen campus activism events promoting the constitutional right to free speech, as well as many other political issues ranging from gun rights to criminal justice reform. I've worked with the administration to secure the rights to free expression on public areas of campus within the WMU Student Code of Conduct and to foster a campus community where the free exchange of diverse ideas and opinions are not only tolerated, but encouraged.

Protecting the First Amendment liberties guaranteed in the United States Constitution should not be a partisan issue. Most liberals and most conservatives have long agreed that the ability to express political viewpoints freely and without censorship is a core tenet of American democracy. However, I agree with several of the members of this committee that there is a culture being fostered on college campuses in Michigan and throughout the nation where minority viewpoints are not tolerated. Where diversity of opinion and discussion of controversial or unpopular subjects is not welcome. And students, most often conservative and libertarian students, are being denied platforms or are facing obstacles when attempting to express their points of view. At Western Michigan University, this toxic culture of speech suppression has directly impacted several of my friends and fellow students attempting to engage in political dialogue. We've had posters torn down, private property vandalized, and a former chairman of WMU's College Republican chapter was spit on on campus for simply supporting the President of the United States. This culture has stemmed from a lack of civil dialogue, debate, and growing intolerance of hearing viewpoints different from a vocal majority.

As students we understand that legislation or campus policy cannot unilaterally restore a culture of discussion and debate. That is why Young Americans for Liberty and other conservative groups have taken the initiative to engage students of all backgrounds and partisan leanings with constructive dialogue on the issues of our generation. However, the first amendment rights to free speech and expression are continually violated by public colleges and universities that enforce unconstitutional speech codes, relegate expression to free-speech zones, and suppress the expressive conduct outlined in House Bills 4435 and 36.

The cases of free speech violations that have been cited last month in this committee and that have been reported and publicized in media are not isolated instances. Restrictive speech codes exist and are enforced at colleges throughout the state of Michigan. In the fall of 2016, my good friend Shelly and two other friends were arrested at Kellogg Community College for distributing pocket constitutions to students on a public walkway. They were not impeding students from getting to class, they were not disruptive or inciteful, nor were they confronting or aggressively soliciting literature to disinterested students. Legislation like House Bills 4435 and 4436 are necessary when activists have been arrested for peacefully distributing the very document that protects their right to free speech and expression. This incident, while contested by university administrators who object to accountability in protecting the rights of students, remains the most explicit and notorious infringement, but many more instances have occurred on Michigan campuses just in the last few years.

In 2016, members of a political organization advocating for free speech rights on Grand Valley State University's campus were told by police to relocate to a designated free speech zone in a smaller less densely populated area. GVSU was sued in federal court for limiting expressive activity in public areas of campus.

In 2017, Macomb Community College was sued for violating the free speech rights of students by enforcing a section of the student code requiring, "advance permission for students to engage in expressive activities on campus." It is an authoritarian proposition that students who pay tuition, who have taken the proper steps in registering a student organization, be forced to request rights back which are self-evident and guaranteed. In both of these instances, the schools reached settlements where speech codes were reformed and each paid over \$10,000 in legal fees and damages to plaintiffs.

Another form of speech suppression utilized by administrators is the practice of charging student organizations exorbitant security fees for hosting speakers on campus. As Representative Camilleri mentioned in the previous hearing, the safety and security of all students is clearly a priority for administrators. However, legitimizing the heckler's veto and projecting outrageous costs on student organizations to host speakers because of potential backlash to controversial speech is not justified. Most college students, and the campus organizations in which they invest

their scarce time, energy, and passion, cannot afford these fees. This so-called 'speech tax' suppresses debate, discussion, and expression.

Speech taxes are not levied only on groups hosting conservative speakers; such infringements transcend partisan and ideological biases. At WMU, a left-wing organization Kalamazoo for Peace attempted to host African-American rapper and filmmaker Boots Riley on campus for a 'Peace Week' address. Western Michigan University denied their reservation request citing the controversial statements Mr. Riley had made with regards to racial injustice and police brutality. After students provided evidence that Mr. Riley had spoken on other campuses without inspiring violence and uproar, they were permitted to host him if an exorbitant security fee was paid on the grounds of 'public safety.' A speech tax is inherently un-American and violates the rights to free expression enjoyed by all students, white, black, liberal or conservative.

The case was settled in federal courts and WMU was forced to pay \$35,000 in attorney fees and damages. When students' free speech rights are violated, justice should not require lengthy and expensive litigation. Michigan taxpayers subsidize higher learning institutions and along with students are forced to bear the financial burden of student recourse when universities trample on constitutional rights.

In my opinion, the most egregious infringement of campus free speech does not involve politics or partisan bias at all. In 2015, a student at Northern Michigan University was threatened with disciplinary action if she discussed details of her sexual assault with other students. Additionally, students were threatened disciplinary action if they discussed thoughts of self-harm with other students, including friends and relatives. The price tag of this settlement was \$173,500. There must be a codified mechanism that prevents or discourages free speech violations before taxpayers are billed for the totalitarian behavior of campus administrators. These are just a few of many instances that have resulted in litigation, most cases of speech suppression go uncontested and exist to discourage students from being politically active and engaging in expressive activities on campus.

I also wanted to briefly address valid concerns that were brought up by Representatives LaGrand and C. Johnson regarding Section VII of HB 4436, prohibiting discrimination in benefits and privileges available to student organizations. I believe both representatives cited the possibility of hate speech in their questions, and I want to clarify that hate speech is determined subjectively and is not a categorical exception to free speech.

In their question, both representatives referred to a hypothetical instance of a group promoting black supremacy on campus, and if I remember correctly questioned whether or not their speech would be protected under this legislation. As a student, I absolutely believe that their rights to speech and expression should be protected. Unpopular speech, even speech that most find

detestable, must be protected with the same vigor as popular speech, and restrictive action should not be made on the basis of content, even if that content is universally despised. An administrative board or a group of faculty should not determine what content is allowed to be expressed on campus.

In somewhat of a parallel experience, during my sophomore year at WMU, a right-wing nationalist group reserved a table next to mine at our annual fall organizational fair. While not explicitly promoting white nationalism, they advocated for complete immigration restrictionism and the enforcement of traditional European values. Their ideas were confronted, challenged, and passionately debated by many students passing by. By the end of the semester, the group had dissolved voluntarily and did not meet the membership requirement of a registered student organization. Unpopular ideas should not be stripped of a platform. Students and organizations promoting ideas that inspire discomfort, anger or bigotry deserve the opportunity to be publicly ridiculed. This right-wing nationalist group was silenced not by administrators defining and dictating what is and is not appropriate speech, but by losing in the marketplace of ideas determined by every engaged student on campus. The emotions of certain groups of students, in my opinion, do not justify the suppression of disagreeable or unpopular speech. Hate speech should be countered with free speech, not censorship. Those with bad ideas are emboldened if their expression is suppressed, they are embarrassed if students use their speech to demonstrate the flaws and failures of those ideas.

All students deserve the fundamental right to express themselves and their views freely on campus. Public colleges and universities have historically been arenas of debate, dialogue, and entertaining and challenging new ideas. This is a defining variable of the university experience and should not be stifled in the name of political correctness or preventing discomfort. Speech and assembly were not heralded by are nation's founders merely as intrinsic liberties, but as essential safeguards against tyranny and the preservation of thriving democracy. For too long, public institutions of higher learning have denied, suppressed or improperly defended the first amendment rights of students. House Bills 4435 and 4436 are common sense bills to hold public universities accountable for protecting the freedoms of speech and expression that enrich the college experience and our society as a whole.

Respectfully,

Evan Oudekerk  
Chairman  
College Republicans at WMU