

February 10, 2015

Dear Members of the Committee on Higher Education:

As a tenured, full professor at Central Connecticut State University and Chair of the Department of History, I would like to offer testimony with respect to Senate Bill 861: ***AN ACT ALLOWING CRIMINAL HISTORY RECORDS CHECKS AND DISCIPLINE OF FACULTY MEMBERS OF INSTITUTIONS OF HIGHER EDUCATION.***

The Act would allow for universities "to perform a criminal history records check of a professor and to discipline a professor, including, but not limited to, termination from employment for any criminal conduct by a professor while employed by such institution."

The principle of tenure for judges and professors is a longstanding tradition in these two professions, because more than any other group, these are individual at risk for persecution for their beliefs, words and writings. So while tenure protects from any firing related to one's scholarly opinions, it does not protect, ordinarily, against termination for failure to do one's job in the larger sense, or against termination for crimes committed as part of one's office. If a judge takes a bribe, she can be impeached. If a professor commits a fraud upon a student, his employment can be terminated. But if in the course of living their lives such persons commit a crime, are prosecuted for it and found guilty of it, unless that crime relates to their office at the time it is committed, they should be protected from termination of their employment. To target persons after the fact, to search through criminal records to look for past convictions, and then to punish them, perhaps because one does not like them now, is unfair and unjust.

Let's consider the implications of this proposed law. In 1962, sodomy was a felony in every state in the United States. In 1971, Connecticut repealed its sodomy law, but some states had laws on the books up to 2003 when Lawrence v. Texas was decided by the US Supreme Court. Hypothetically there could still be a person convicted under such a statute teaching in one of the state universities (community colleges appear to be exempted) and who now would be subject to termination if such a conviction were uncovered. But apparently this

would be discretionary; it isn't clear who would make the decision. This is left up to whatever might be negotiated in a union contract.

To do this at all is wrong. To leave it up to the vagaries of contract negotiation, in which bargains are reached, jeopardizes due process. And how will one determine whether the felonious "sodomite" of 1969 (or 1989 or 1999) who is now a respected member of the LGBT community, married perhaps under Connecticut state law, and a university professor of distinction, is exempt from termination? Will a professor who drove under the influence, or a professor who was involved in argument with a neighbor that got out of hand, have to be terminated? And apparently the punishment is not limited to termination. What else can the state do? Take one's pension (yes), and then what?

I'm not arguing that it is acceptable for professors to engage in criminal conduct. Far from it. But this proposed statute has such a broad reach, enabling an institution to look for any misdemeanor or felony and to take away a person's living, and perhaps his or her potential to earn a living thereafter, without any specified process. There is no public policy need for this law, no rampant problem for which it is a solution.

Why this law, now? We have all seen headlines of professors behaving badly. It's embarrassing for the institutions and the public must wonder what is being taught by these "bad boy/bad girl" professors. Should "our kids" really be around such people? University students are not kids, despite the ubiquitous use of that word to describe them. They are adult men and women who are capable of weighing any factors they consider pertinent with respect to their education. If a professor is convicted of a crime for which there is no jail time, or jail time which does not interfere with carrying out his or her duties to the university, does that affect the professor's ability to teach the subject in which they have expertise? There is no reason why it would.

This proposed law should not go forward. It is too broad and too vague; it allows for abuse of power by enabling universities to go back into a professor's past without limitation; it does not specify how professors would be protected from having their employment

terminated simply because universities had tired of them and were able to find some ancient infraction of the law.

Thank you for your consideration.

Respectfully submitted,

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