

speech" (Syruga and Rozsa, 2022). The fact that the law was vague and left it unclear what is prohibited or permitted also shaped the judge's ruling. If faculty have trouble interpreting a law, they are likely to err on the side of caution by omitting materials they otherwise would have included in the course-work. This has a chilling effect on free speech.

PEN America issued a report³ on state legislative efforts to restrict teaching about topics such as race, gender, American history, and LGBT+ identities in K-12 and higher education. The organization tracks these bills weekly in an Index of Education Gag Orders.⁴ As of August 2022, proposed gag orders increased 250 percent compared to 2021, with 36 states introducing 137 gag order bills in 2022. The 2022 bills are more punitive than past proposals, including heavy fines or loss of state funding for institutions, termination of employment, and/or criminal charges for teachers. While most bills targeted teaching about race, a growing number targeted LGBTQ+ identities, including Florida's BH 1557 "Don't Say Gay" bill—and 22 others.

Bills introduced in 2022 also targeted higher education more frequently than in 2021, with 39% of bills in 2022 targeting higher education, which many political observers see as part of a larger attack on higher education. Colleges and universities in Republican-led states are particularly vulnerable to gag orders. Republican lawmakers have overwhelmingly driven this trend (with only one Democratic sponsor for the 137 bills introduced from January 1 to August 22, 2022). Conservative groups have urged Republican legislators to sponsor new legislation and lobbied the courts to broaden the interpretation of existing gag order laws. While Republican legislators once championed bills protecting free expression on college campuses, many of their

bills now censor the teaching of particular ideas. As is often the case in politics, general support for broad principles (e.g., free speech) gives way to narrow concerns about protecting one's own ideological interests (e.g., supporting controversial conservative speech while banning liberal speech, or vice versa).

PEN America, and other groups championing the freedom of expression, anticipate that more gag order bills introduced in state legislatures where they failed to pass by a narrow margin in 2022. This includes "curriculum transparency" bills, content bans (e.g., anti-CRT and anti-LGBT+ bills), and book bans.

In some ways, the conversation surrounding recent gag order laws mirrors the liberal attempts to combat hate speech, discrimination, and harassment through speech codes at public universities in the 1980s and early 90s. While the courts were sympathetic to these goals, most struck down such codes as overly-broad bills that constituted viewpoint discrimination. Rather than relying on legislators to tell faculty and students what they can discuss in the classroom, faculty should be trained to facilitate difficult conversations and encourage free speech, civility, and democratic deliberation in the classroom.⁵ ■

ENDNOTES

1. <https://yourlogicalfallacyis.com/>
2. <https://yourbias.is/>
3. <https://pen.org/report/americas-censored-classrooms/>
4. https://docs.google.com/spreadsheets/d/1Tj5WQVBmB6SQg-zP_M8uZsQQGH09TxmBY73v23zpyr0/
5. For a useful discussion guide promoting free speech and inclusion on campus see <https://idhe.tufts.edu/resources/free-speech-inclusion-campus-discussion-guide>

MEMBER AWARD UPDATES

Awarded first Chancellor's Medal of Excellence (2023)

Michelle Deardorff

University of Tennessee, Chattanooga



Awarded final list and honorary mention in Award for Best Book in Israel Studies by Azrieli Institute of Israel Studies and Concordia University Library (2022)

Niva Golan-Nadir

University at Albany, SUNY



Awarded the Citrin Award lecture (2022)

Donald Green

Columbia University



Awarded President's Award for Distinguished Scholar-Teachers (2023)

Mark Howard

Georgetown University

Awarded ISA Human Rights Best Book Award (2023)

Lynette Ong

University of Toronto