

September 10, 2013

Dr. Jo Ann Gora
President
Ball State University
Muncie, IN 47306
president@bsu.edu

Dear President Gora:

We are writing to protest Ball State University's serious violation of academic freedom with regard to faculty discussions of intelligent design. As we will explain below, we are also requesting an investigation into several BSU professors and courses to ensure that they comply with the same academic standards that BSU has applied to Prof. Eric Hedin.

Your effort to censor speech by faculty who support intelligent design is a betrayal of the principles of free inquiry. Academic freedom means nothing if it does not protect the rights of faculty who espouse minority opinions. Contrary to your "President's Perspective" memo to faculty and staff of July 31, the issue here is not one of "academic integrity." The issue is whether BSU is willing to comply with the academic freedom provisions of its own governing documents, provisions that are supposed to be the heart of the modern university.

Your July 31 statement demonstrated why we need free and open discussion on this topic. The statement was not based on what proponents of intelligent design actually believe, but instead clearly relied on stereotypes and misrepresentations from its critics. This is not how free and open inquiry is conducted. Had you investigated more widely, you would have learned that there are many distinguished scientists who believe there is empirical evidence of design and purpose in nature, especially in the disciplines of physics, cosmology, and astronomy. These scientists are not "creationists," and their scientific views are not derived from the Bible. These scientists include those who accept Darwinian theory in biology but who think there is evidence of design at the level of the universe as a whole. Consider the following comments by renowned Nobel Prize-winning physicist Charles Townes at the University of California, Berkeley:

Intelligent design, as one sees it from a scientific point of view, seems to be quite real. This is a very special universe: it's remarkable that it came out just this way. If the laws of physics weren't just the way they are, we couldn't be here at all. The sun couldn't be there, the laws of gravity and nuclear laws and magnetic theory, quantum mechanics, and so on have to be just the way they are for us to be here.¹

¹ http://berkeley.edu/news/media/releases/2005/06/17_townes.shtml (emphasis added)

Students at BSU will be ill-served, as will the cause of academic inquiry, by your outright ban on science faculty from discussing the views of outstanding scientists such as Townes and others.

It is especially disturbing that BSU seems to have been guided in its actions by the Freedom from Religion Foundation, a group so extreme that it is currently trying to remove the Star of David from a proposed Holocaust memorial in Ohio by making the incredible claim that the memorial “shouldn’t single out just one group of people who was harmed during that tragedy,” as if Jews were not a special target of Nazi genocide.² BSU’s abject surrender to this group’s bullying tactics stands in stark contrast to your actions nine years ago in defense of controversial peace studies Prof. George Wolfe. In the Wolfe case, BSU quickly rejected a complaint, filed by a conservative group and vigorously defended the rights of the professor under attack. Your vastly disparate treatment of Professors Wolfe and Hedin communicates a powerful message that at BSU academic freedom is only for those with whom you agree.

We believe that BSU’s recent actions not only violate BSU’s *Faculty and Professional Personnel Handbook*, but they raise potential constitutional violations of the rights of free speech, freedom of religion, due process, and equal protection.

Furthermore, we are concerned that the standards being cited publicly by BSU to justify its faculty speech code on intelligent design may be shams because they are not being applied equally to all faculty and courses. If BSU is serious about the standards that it claims to be upholding, these standards need to be applied across the board. **Accordingly, we demand that you investigate the professors, courses, and questions listed below, and we ask that you apply the same standards to the cases we raise that you have applied to BSU faculty sympathetic to intelligent design.**

Requests for Investigation

1. “Science” Courses with Non-Science Content

BSU appears to claim that Honors 296, Inquiries in Physical Sciences, is simply a “science” course. That is why it is inappropriate in BSU’s view for the course to discuss the debate over intelligent design, because (in your view) intelligent design is religion rather than science, which places it outside the scope of the course. **However, based on our review of course syllabi for multiple sections of Honors 296 and its parallel courses (Honors 297, Inquiries in Earth Sciences; and Honors 298, Inquiries in Life Sciences), it is clear that many sections of these courses contain *significant* amounts of non-scientific material, including religious material.** Here are some examples:

(a) Honors 296, “‘Old’ and ‘New’ Science,” devotes an entire week to the topic of “Science and Religion” according to its syllabus. This week is followed by another week on “Science and the Individual” that also appears to focus on religious or spiritual topics.

² http://www.huffingtonpost.com/2013/07/18/ohio-statehouse-holocaust-memorial-star-of-david_n_3612373.html

(b) Honors 297, “The SustainABLES: Air, Biodiversity, Land, Energy, & the Seas (Water),” is just as much about public policy as it is about ecology. The syllabus explicitly states that the course will cover “social, economic, political, [and] cultural... issues facing modern society” in addition to ecological issues, and one of the course objectives is having students “Examine and discuss the political and legal issues behind sustainable or ‘green’ guidelines.”

(c) Honors 298, “The Biology of Life,” promises to address “the numerous ethical and societal issues surrounding such topics” as “aging, cancer, cloning, euthanasia, genetic engineering, gene therapy, the Human Genome Project and recombinant DNA biotechnology.” The syllabus further states that students in the course will “Openly discuss the moral and ethical issues within modern biology.” Indeed, the course requires students to write seven papers on ethical case studies assigned during the course.

Not only do Honors 296, 297, and 298 seminars typically have large amounts of non-science content, a perusal of the official BSU description for these courses reveals that BSU actually *requires* the seminars to cover non-scientific content. According to BSU’s official course descriptions for all three courses, the seminars must “emphasiz[e] the relationships of the sciences to human concerns and society.” Moreover, they are supposed to examine “social and ethical consequences of scientific discoveries and their applications to critical issues confronting contemporary society.”³ In short, these courses are required by BSU to be broadly interdisciplinary seminars on the relationship between the sciences and human concerns. Applying these requirements to Prof. Hedin’s Honors 296 seminar, regardless of whether intelligent design is considered “religion,” science, philosophy, or something in between, it clearly fits within BSU’s official description for the course by raising questions about the relationship of science “to human concerns and society.”

BSU cannot have it both ways. **If it maintains that intelligent design cannot be discussed by Prof. Hedin in Honors 296 because it is non-scientific and therefore outside the scope of a “science course,” then non-science content in *all* of the other sections of Honors 296, 297, and 298 must be banned as well.** Moreover, the official BSU descriptions of these courses must be re-written to remove the requirement that non-science content be covered. If you only require non-science content to be removed from Prof. Hedin’s section of Honors 296, you will be applying an arbitrary—and potentially unconstitutional—double standard. **We therefore ask you to review carefully all sections of Honors 296, 297, and 298 in order to identify and remove non-science content in these courses. We request further that you to rewrite the official BSU descriptions for the courses to remove the current requirement that they cover non-science topics.**

If you are unwilling to make these changes, then we ask you to make clear that your previous directive banning discussions of intelligent design in science courses does not apply to Honors 296, 297, and 298, because they are not straight science courses. They are in fact interdisciplinary courses that are supposed to cover the relationship of science to broader questions in culture.

³ <http://cms.bsu.edu/academics/undergraduatestudy/catalog/current-year/collegesdeptprog/honors>

2. Qualifications of Professors to Teach Honors 296, 297, and 298

According to BSU's student newspaper, *The Daily*, Provost Terry King stated that one purpose of the committee appointed to investigate Eric Hedin and his "Boundaries of Science" seminar was to "review... if the professor is qualified" to teach his Honors course.⁴ In our review of other sections of Honors 296, 297, and 298, it has become clear that several of the faculty for these courses appear to be teaching content well outside their professional expertise. **Since you chose to investigate Eric Hedin's qualifications to teach his course, we ask that you launch equivalent investigations to review the qualifications of all other BSU faculty who teach sections of Honors 296, 297, and 298, including the following:**

(a) BSU English Prof. Brent Blackwell: Prof. Blackwell has repeatedly taught Honors 296, which according to BSU is supposed to be a science course. Yet Prof. Blackwell appears to have no academic or professional training in the sciences, not even an undergraduate degree. Both his Ph.D. and his B.A. are in English.

(b) BSU Biology Prof. Ann Blakey: Prof. Blakey teaches politics, law, economics, and other non-scientific content in her Honors 297 seminar. But according to her BSU website, she does not have academic qualifications or professional background in any of these areas. Nor are these areas listed as her areas of research.

(c) BSU Biology Prof. James Olesen: Prof. Olesen deals with the moral and ethical aspects of such issues as euthanasia in his Honors 298 seminar. Yet his BSU website shows no evidence of any academic training or publications in philosophy, ethics, religion, or related areas.

BSU must apply the same standard for qualifications to all faculty who teach Honors 296, 297, and 298; any standard applied to Prof. Hedin must be applied equally to all faculty who teach these courses. **We ask BSU to provide us with evidence that it has investigated the qualifications of all faculty who teach Honors 296, 297, and 298, and that BSU is applying the same standard of professional qualifications equally to all faculty for these courses.**

3. Application of Same Speech Restrictions to Professors Critical of Intelligent Design

In your July 31 statement, you asserted that "intelligent design is not appropriate content for science courses," effectively banning BSU science faculty from even discussing the topic in any science class. You further claimed that, "Discussions of intelligent design and creation science can have their place at Ball State in humanities or social science courses," but that "even in such contexts, faculty must avoid endorsing one point of view over others... As a public university, we have a constitutional obligation to maintain a clear separation between church and state. It is imperative that even when religious ideas are appropriately taught in humanities and social science courses, they must be discussed in comparison to each other, with no endorsement of one perspective over another."

⁴ <http://www.bsudailynews.com/Content/Default/What-s-New/Article/Ball-State-administrator-discusses-science-and-religion-controversy/-3/9/39313>

Thus, in addition to banning science faculty from discussing intelligent design, you appear to have forbidden *all* BSU faculty from expressing their personal or professional beliefs in favor of intelligent design in *any* class at BSU.

We believe that your effort to ban certain kinds of faculty speech at BSU is neither required nor justified by state or federal constitutional law, potentially runs afoul of the same law, and further potentially violates BSU's own published standards on and commitment to academic freedom. Contrary to the legal opinion you offered in your July 31 statement, no persuasive or binding authority establishes that individual faculty members at a university violate the Establishment Clause whenever they personally endorse particular viewpoints related to religious questions. Contrary to the claim of support for academic freedom you made in your July 31 statement, your policy on that subject would, if applied, violate BSU's *Faculty and Professional Personnel Handbook* on the same subject, which states: "Academic freedom and freedom of expression include but are not limited to the expression of ideas, philosophies, or **religious beliefs**, however controversial, in classroom or other academic settings."⁵

BSU's application of the statements you made in your "President's Perspective" will help determine whether BSU violates the Federal and Indiana constitutions, respectively. Regarding intended application, we ask you to respond to the following questions:

(a) You have decided that "intelligent design is not appropriate content for science courses." To be lawful, your ban on the discussion of intelligent design in science classes must apply equally to science faculty who oppose intelligent design as well as to science faculty who support intelligent design. Thus, under your new policy, BSU science faculty hostile to intelligent design can no longer be allowed to voice their criticisms of intelligent design in their science classes. In addition, because a number of science textbooks now discuss intelligent design in order to criticize it, BSU's new policy requires BSU to ensure that science faculty do not use these textbooks in their classes. **Accordingly, we ask you to issue an immediate public directive to all BSU science faculty making clear that your ban on intelligent design in science classes applies equally to science professors who are critical of intelligent design as well as to those who support it.** To reiterate, we think that science professors at BSU should have the right to express their personal and professional opinions in class about intelligent design, whether pro or con. But once BSU has determined that intelligent design is an impermissible topic in science classes, it cannot apply this policy selectively only to science faculty who support intelligent design; BSU must apply this policy equally to all science faculty and their classes.

(b) In addition to your ban on intelligent design in science classes, you have claimed that no BSU faculty member in any field is allowed to endorse intelligent design in class because in your view it is a religious idea. We believe your claim is false as a matter of both fact and law. First, the hypothesis that nature supplies empirical evidence of intelligent design is not intrinsically religious and can be formulated using the same

⁵ *Faculty and Professional Personnel Handbook*, Ball State University, p. 68 (emphasis added).

scientific methodology pioneered by Charles Darwin.⁶ Second, even if intelligent design *were* religious in nature, your assertion about what the law allows individual faculty to say is erroneous. As noted previously, statements of personal belief by individual professors are not banned by the First Amendment; rather, they are protected by it. **Nevertheless, if this is your new policy, you must apply it fairly and equally, as the law requires.** If all BSU faculty are now forbidden from endorsing intelligent design in any class they teach because you think their individual comments represent an official endorsement of religion by BSU, then those same faculty must also be forbidden from endorsing *criticisms* of intelligent design, because in BSU's view those criticisms would be tantamount to an official attack on religion by BSU, a state actor for constitutional and other legal purposes. **Accordingly, we ask you to issue an immediate public directive to all BSU faculty making clear that your new speech code will be applied consistently and that no faculty member henceforward will be allowed to endorse any view, pro or con, relating to intelligent design in any of their classes.**

(c) Since your ban on faculty speech related to intelligent design is based on your claim that individual faculty are not allowed to endorse or take positions in debates over religious ideas, you need to make sure that you apply your new restrictions to all faculty statements regarding all religious topics. Again, we believe that it is legally incorrect to claim that individual faculty cannot express their views on religious ideas, especially if the study of those ideas are within the areas of their teaching and research. However, if BSU wants to ensure legal compliance, it cannot pick and choose which religious ideas upon which BSU Professors are allowed to express their views. **Therefore, we ask that you issue an immediate directive to all BSU faculty instructing them that they must take care never to express their own opinion in class on a topic relating to a religious idea. Since you have already singled out one idea that you think is religious (intelligent design), we further demand that the new directive provide a list of all of the topics regarded as religious by the administration and upon which BSU faculty can no longer offer their personal views.**

(d) Given BSU's new policy forbidding its faculty from favoring or endorsing one side of a religious debate over another, **we hereby demand an investigation of BSU English Prof. Paul Ranieri and his Honors 390 seminar, "Dangerous Ideas," which appears to violate the new policy.** According to the Spring 2013 syllabus for this course, the sole textbook used is the print and digital version of *What Is Your Dangerous Idea?: Today's Leading Thinkers on the Unthinkable*, a volume edited John Brockman, who has been honored as one of "The 25 Most Influential Living Atheists."⁷ This completely one-sided book appears to be one long argument for atheism. Indeed, its contributors declare that "Science Must Destroy Religion," that "There is no God; no Intelligent Designer; no higher purpose to our lives," and even that science should assume the role currently played by religion and that scientists should function as our "high priests." The following excerpts provide examples of the virulently anti-religious point of view promoted by the book:

⁶ See discussion of the scientific basis of intelligent design in Stephen Meyer, *Signature in the Cell: DNA and the Evidence for Intelligent Design* (HarperOne, 2009) and *Darwin's Doubt: The Explosive Origin of Animal Life and the Case for Intelligent Design* (HarperOne, 2013).

⁷ <http://www.superscholar.org/features/influential-atheists/>

“Science Must Destroy Religion... Religious faith—faith that there is a God who cares what name he is called, that one of our books is infallible, that Jesus is coming back to earth to judge the living and the dead, that Muslim martyrs go straight to Paradise, and so on—is on the wrong side of an escalating war of ideas.”⁸

“This Is All There Is... The empirically testable idea that the here and now is all there is and that life begins at birth and ends at death is so dangerous that it has cost the lives of millions and threatens the future of civilization. The danger comes not from the idea itself, but from its opponents, those religious leaders and followers who ruthlessly advocate and defend their empirically improbable afterlife and man-in-the-sky cosmological perspectives.”⁹

“Human beings are accidental and incidental products of the material development of the universe, almost wholly irrelevant and readily ignored in any general description of its functioning. Beyond Earth, there is no intelligence—however alien or like our own—that is watching out for us or cares. We are alone.”¹⁰

“We Are Entirely Alone... Living creatures capable of reflecting on their own existence are a freak accident, existing for one brief moment in the history of the universe. There may be life elsewhere in the universe, but it does not have self-reflective consciousness. There is no God; no Intelligent Designer; no higher purpose to our lives.”¹¹

“Just as my patients adapt to difficult realities by creating metaphorical substitutes, it appears to me that beliefs in angels, deities and eternal souls can be understood in part as wish-fulfilling metaphors for an unpleasant reality that most of us cannot fully comprehend and accept.”¹²

“The confrontation between science and formal religion will come to an end when the role played by science in the lives of all people is the same played by religion today... Imagine a Church of Latter-day Scientists, where believers could gather. Imagine congregations raising their voices in tribute to gravity, the force that binds us all to the earth and the earth to the sun and the sun to the Milky Way... One day the sites we hold most sacred just might be the astronomical observatories, the particle accelerators, the university research installations, and other laboratories where the high priests of science... engage in the noble pursuit of

⁸ Sam Harris, “Science Must Destroy Religion,” in John Brockman, editor, *What Is Your Dangerous Idea? Today's Leading Thinkers on the Unthinkable* (New York: Harper Perennial, 2007), pp. 148-151.

⁹ Robert R. Provine, “This Is All There Is,” in *ibid.*, p. 159.

¹⁰ Scott Atran, “Religion Is the Hope That Is Missing in Science,” in *ibid.*, p. 171.

¹¹ Keith Devlin, “We Are Entirely Alone,” in *ibid.*, p. 33.

¹² Todd E. Feinberg, “Myths and Fairy Tales Are Not True,” in *ibid.*, p. 174.

uncovering the workings of nature. And today's museums, exposition halls, and planetaria may become tomorrow's houses of worship...."¹³

We ask that BSU launch an investigation of Prof. Ranieri and his course that is at least as rigorous as the one to which Prof. Eric Hedin was subjected. To treat Prof. Ranieri and Prof. Hedin, two similarly situated individuals, in a similar manner, as required by law, BSU should appoint an investigatory committee that includes investigators who have evinced prior hostility to the views espoused in Prof. Ranieri's course, in a manner similar to that performed by BSU in the case of Prof. Hedin. To mitigate risk of unconstitutional state endorsement of religion, or of hostility to religion, the committee should search for and quarantine for elimination materials in Ranieri's course that indicate imbalance on religion; the absence of equal coverage of views on the question of theism, for example, would constitute imbalance. The committee should also investigate Prof. Ranieri's professional qualifications to teach his course since Prof. Ranieri's seminar material covers science, ethics, religion, and technology even though Prof. Ranieri apparently lacks professional expertise in these areas. The committee should start with Prof. Ranieri but it cannot end with him; the standards of review on course content and professor qualification to which Hedin was subjected, and the policy BSU promulgated in your July 31 statement, must be applied in equal fashion to all of BSU teaching faculty.

Although we believe that Prof. Ranieri's apparent teaching of a one-sided course on religion should be allowed as part of academic freedom, BSU must now do unto its other professors as it has done unto Dr. Hedin, for the sake of self-consistency and legal compliance. **Otherwise, BSU will violate the Establishment Clause by permitting religious hostility in some cases and *selective, arbitrary* religious endorsement in others, while forbidding similarly situated and performing professors, those like Dr. Hedin, from doing likewise, which would also amount to a violation of the law of equal protection, as explained above.**

(e) Given that your new ban on faculty speech is inconsistent with the guarantees of academic freedom in BSU's *Faculty and Professional Personnel Handbook*, we ask that you repeal and/or revise those guarantees so that current and future BSU faculty, students, and the public are not misled into thinking that BSU provides more academic freedom than it actually does. In other words, to be consistent you must make it clear that at BSU, it is *not* the case that "Academic freedom and freedom of expression include ... the expression of ideas, philosophies, or **religious beliefs**, however controversial, in classroom or other academic settings."

Of course, after considering the points above, you may decide that you are not willing to fairly and consistently apply your new ban on faculty speech. **In that case, we ask that you repeal forthwith your earlier and very public blanket ban on BSU faculty expressing support for intelligent design, and that you make clear to faculty and the public that this ban has been repealed. We also ask that repeal be issued in no less public a manner than the ban.**

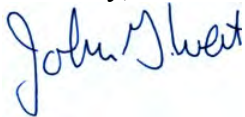
¹³ Carolyn Porco, "The Greatest Story Ever Told," in *ibid.*, p. 153, 155.

4. Earlier Questions about Procedure and Due Process in the Hedin Case

On July 1, Discovery Institute sent you a letter asking for answers to nine questions about the procedures followed in its investigation of Prof. Hedin. Since the time of that letter, the former chair of the University Senate at BSU, Eric Kelly, has expressed concerns in the *Star Press* about the ways in which BSU apparently violated its own policies in handling the complaint against Prof. Hedin.¹⁴ Thus far you have not responded to our previous letter, or to any of the questions raised in it. **We ask you again to answer those questions, which we re-attach to this letter.** If BSU has nothing to hide, it should not be afraid to provide information about the procedures and policies it followed when investigating Hedin.

We ask for a response to each of the items listed above by no later than the end of business on Monday, September 30, 2013. If you do not respond by that time, we will assume that you do not intend to answer our questions, or otherwise cooperate with our reasonable requests, and that we must therefore seek remedy elsewhere.

Sincerely,



John G. West, Ph.D.
Vice President
Discovery Institute



Joshua Youngkin, J.D.
Program Officer, Public Policy and Law
Discovery Institute



Donald McLaughlin, M.A.
Ball State University Alumnus and Resident of Indiana
Regional Representative
Discovery Institute

¹⁴ <http://www.thestarpress.com/article/20130802/OPINION/308020016/Ball-State-Eric-Hedin-intelligent-design-academia-religion>

Attachment
Questions Asked in July 1 Letter from Discovery Institute
to President Gora that BSU Has Failed to Answer

1. What specific language in the *Faculty and Professional Personnel Handbook* authorizes the appointment and governs conduct of the special committee investigating Prof. Hedin and his course? Please supply copies of this language and any policies, procedures, or standards that guarantee and explain Prof. Hedin's rights to due process.
2. What other professors at BSU have been subjected to investigation by a special committee using the language and other policies, procedures, and standards referenced in question 1?
3. What specific standards are the special committee and Provost using to determine as "appropriate" or not the content and teaching of Prof. Hedin's course? Have these standards been applied to other BSU faculty? If so, how have they been so applied?
4. What specific standards are the special committee and Provost using to determine whether Prof. Hedin is "qualified" to teach his course? Have these standards been applied to other BSU faculty? If so, how have they been so applied?
5. What specific measures has BSU taken to ensure that Prof. Hedin is treated fairly and that his academic freedom rights are protected during this investigative process?
6. How were members of the special committee selected, and what specific measures were taken by BSU to ensure that committee members would be impartial and free from conflicts of interest?
7. Why was Prof. Hedin's academic department excluded from the evaluation process, including the special committee?
8. Please explain whether the Provost and any members of the special committee have been specifically instructed by BSU that they must act in accord with the following provisions of BSU's *Faculty and Professional Personnel Handbook*:
"Academic freedom is essential ... and applies to both teaching and research ... Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning" (p. 63); "[t]he teacher is entitled to freedom in the classroom in discussing the appointed subject, but should be careful not to introduce a controversial matter which has no relation to the subject" (pp. 63-64); "Academic freedom and freedom of expression include but are not limited to the expression of ideas, philosophies, or religious beliefs, however controversial, in classroom or other academic settings." (p. 68)
9. Why is BSU subjecting Prof. Hedin to a level of scrutiny and analysis that BSU did not apply to Prof. George Wolfe, when Wolfe's freedom to teach was challenged in 2004?