

Response to Ad hoc Committee Report

Center for the Philosophy of Freedom

Contents

1	Overview	2
2	Allegations regarding donor influence on hiring	3
2.1	Email from Matt Brown (02/08/2010)	4
2.2	Email from Professor Schmitz (07/03/2009)	6
2.3	Hiring process in the Department of Philosophy	8
2.4	Email from Professor Schmitz (09/06/2018)	9
2.5	Interim summary	10
3	Allegations regarding legislative influence on hiring	10
3.1	Department of Philosophy meeting minutes	11
3.2	Area search warranted	12
3.3	Testimony about the search process	13
4	Allegations regarding donor influence on curriculum and teaching	15
4.1	Randy Kendrick donor proposal (03/09/2004)	15
4.2	Randy Kendrick donor agreement (12/04/2026)	15
4.3	Interim summary about donor agreements	17
5	Concerns about the committee’s activity	18
5.1	Limited evidence	18
5.2	Collective and misdirected punishment	19
5.3	Defamation per se	19
5.4	Apparent chair bias	20
6	General concerns about funding sources	20
6.1	Private funding	21
6.2	Public funding	21
7	Conclusion	22

1 Overview

The Faculty Senate’s *Ad hoc* Committee on Donor Influence (hereafter, “the Committee”) presented its initial report (hereafter, “the Report”) to the Senate on September 11, 2023. This Response aims to clarify that the Center for the Philosophy of Freedom (hereafter “the Freedom Center” or “the Center”) has never allowed its external donors to “improperly influence” the hiring of university faculty or the design of classroom curricula.

We also hope that this Response might address the concern about the Center’s alleged lack of transparency in its operation. In the very spirit of transparency, open communication, and collegiality, we would have welcomed being informed about the Committee’s work and would have appreciated the opportunity for a constructive conversation with them.¹ However, the Center was never contacted by the Committee nor has the Committee made any attempts to validate or corroborate the information in the Report through any input or feedback from the Center’s leadership or any of its members. This might explain the inaccuracies and substantial errors that are included in the Report. Due to these inaccuracies and factual errors — which we detail below — the Committee draws erroneous conclusions, resulting in baseless accusations against not only the Center but also the Department of Philosophy, the Department of Political Economy and Moral Science, and some of our fellow colleagues.

We note that the vast majority of the Report concerns matters dating back more than 15 years. The Director of the Center at that time, Professor Schmidt, is no longer a member of the faculty at the University of Arizona.² The Head of the Department of Philosophy, who crafted together with the University of Arizona Foundation the donor agreements the Report cites, has been emeritus since 2021.

There is no question that genuine inappropriate donor influence can adversely affect academic freedom. The University of Arizona Foundation has practices and policies in place to prevent conflicts of interest such as donors attempting to direct faculty hires, dictate course content, and steer scholarly activities. However, the University of Arizona has an ethical and legal obligation to

¹ This would have aligned with the stated intention, articulated by the Chair of the Faculty Senate upon the Committee’s formation, that the Committee should serve as a “conversation starter”. *Statement from the Chair of the Faculty, Leila Hudson October 3, 2022.*

² <https://business.wvu.edu/faculty-and-staff/directory/profile?pid=3546>

expend donor funds in the ways cited in gift agreements. Best practices in gift stewardship include informing donors of faculty hire finalists, course materials such as a syllabus, research output, and programmatic impact. In every instance cited by the Report, faculty candidates, program proposals, and course content all originated from the university and the donors agreed they were congruent with their philanthropic intent.

The Report also alleges impropriety by the Center for actions undertaken variously by the Arizona Board of Regents, the Arizona State Legislature, and the State of Arizona. Not only are the allegations misdirected since the Center did not undertake the actions in question, the Arizona Board of Regents and the State of Arizona are well-within their charter to take those actions, as we explain below, and them taking those actions is not in conflict with shared governance or academic freedom.

On the contrary, threatening an act of censure on the basis of unsupported allegations of impropriety is an affront to unit autonomy and academic freedom.

2 Allegations regarding donor influence on hiring

The Report alleges that there have been “repeated instances where external donors to the Freedom Center have been allowed to influence the hiring of faculty”.³

The Report alleges the existence of “inappropriate influence” in past hiring decisions attributed to private donors to the Center. However, the Report fails to provide a clear definition of what it deems as “inappropriate donor influence.” How the evidence the Report contains is supposed to support the conclusion that there was “inappropriate influence” is not clear.

Since the Center does not have its own tenure lines and cannot serve as a tenure home for faculty members, it often collaborates with other units on campus to sponsor faculty hires that align with its mission and meet the University of Arizona’s standards of excellence. It is a bedrock of academic freedom that the Center be granted the same autonomy as any other academic unit on campus in determining which faculty it seeks to recruit. However, while the Center has its own mission, it recognizes that other units have their own missions and their own constraints. If a unit determines that an action

³ Unless otherwise noted, quotations are taken from the Report.

that serves the Center's mission aligns with its own goals and constraints, that unit can decide to partner with the Center following University policy.

It follows that absent evidence of any impropriety in this process, the Committee's conclusion about inappropriate donor influence is factually unsupported.

The Report notes in passing that both internal and external investigations into allegations of improper donor influence have exonerated the Center, claiming that those investigations were "incorrect." The Report, however, does not provide any evidence, or even argument, supporting this claim.

There are three specific pieces of evidence of alleged "inappropriate influence" in faculty hiring decisions in the Report. Each of these fail to support the conclusion of impropriety by the Center, by any reasonable standard of "inappropriate".

We now turn to the 3 portions of email exchanges the Report claims to be evidence of "inappropriate donor influence".

2.1 Email from Matt Brown (02/08/2010)

The Report asserts the following:

"The attached email from Koch Foundation employee Matt Brown (sent to David Schmitz) states: 'Our board is ok with moving ahead with [redacted] as the Koch professor.' This shows the Koch Foundation granting permission to the Freedom Center to hire faculty."

The allegation that this shows that a donor is "granting permission" is unsupported by this evidence, for several reasons.

- i. It is interpretation, not fact. The email shows that Professor Schmitz informed the Koch Foundation about how their donation was to be used, and that they are happy with that decision. The donor is not picking or directing Professor Schmitz to make any decision; it is just confirming that the way the Center is using allocated funds is consistent with the purpose of the allocation. This is a normal way to communicate to donors.

This also rebuts the additional conclusion that the filename of the archived email is evidence that the donor was granting permission to

the Center to hire faculty. Chris Maloney saved the file with that name and as his letter makes clear, the Koch Foundation did not “grant permission” for any hire.⁴

- ii. Professor Schimdtz is free to base his professional preferences for the hiring of candidates in anyway he chooses, including on the basis of his beliefs about whether certain donors would be “OK” with them. Indeed, the Report fails to show that Professor Schimdtz would have changed his hiring preferences if the donor had not been “OK” with them. Hence, the conclusion that the Center allowed inappropriate influence is unsupported even if one assumed that the Center had the power to direct the decision of the Department of Philosophy — a power which the Center cannot have. If this is what the Report means by inappropriate influence, it fails to support this allegation. It neither provides evidence that the donor had the ability to alter Professor Schimdtz’s hiring preferences nor that the Center as represented by Professor Schimdtz had the ability to influence the Department of Philosophy’s hiring process.
- iii. The title of “Koch Professor” is a title for a position in the Department of Philosophy and not in the Center. The Center did not vote to hire [redacted] as the Koch Professor of Philosophy; those were deliberations in the Department of Philosophy. At any point, that department could have decided to not hire [redacted], hire someone else, and indeed to not hire anyone at all. The Center did not and could not have acted improperly in a decision made in another unit. The Department of Philosophy voted to extend an offer with tenure to [redacted]. Hence the conclusion that the donor’s being “ok with moving ahead with [redacted] as the Koch professor” is evidence of “permission” granted to the Center to hire faculty is baseless. It is factually erroneous because the Department of Philosophy, rather than the Center, was the hiring unit, and it is unsupported because the Report fails to provide any evidence of impropriety in the Department of Philosophy’s hiring process.

⁴ Letter from J. Christopher Maloney (Professor Emeritus of Philosophy and Cognitive Science, University of Arizona) to Professor Leila Hudson (Chair of the Faculty, University of Arizona Faculty Senate), October 11, 2023.

2.2 Email from Professor Schmidt (07/03/2009)

The Report asserts the following:

“The attached document is an email from David Schmidt, with the following statement: ‘Jim Pierson from TWS [Thomas W. Smith Foundation] confirms that I have run [redacted] name by him (by phone, which explains why I have no record). And Jim’s OK with it.’ ”

The allegation of “inappropriate” donor influence is unsupported by this evidence, for several reasons.

- i. It is, again, interpretation, not fact. The email shows that Professor Schmidt informed the Thomas W. Smith Foundation about a plan for how their donation was to be used, and that they are happy with that. The donor is not picking or directing Professor Schmidt to make any decision; it is just confirming that the way the Center is using allocated funds is consistent with the purpose of the allocation. This is a normal way to communicate to donors.
- ii. Informing the Thomas W. Smith Foundation about the eventual successful candidate was required by the donor agreement, as vetted and approved by the College of Social and Behavioral Sciences and the University of Arizona Foundation. In the same document linked by the Report, it is clear that it was the then Head of the Department of Philosophy who asked Professor Schmidt to inform the donor about the decision to hire [redacted], even though the Report omits to include in its text this part of the email exchange:

“Our TWS agreement requires that we extend an offer on the TWS position by July 1 and that prior to that we present the candidate’s credentials to TWS. Will you be informing TWS today about [redacted]?”⁵

The quoted material from Professor Schmidt is evidence that the Department of Philosophy (the hiring unit) acted in a way consistent with the donor agreement.

This also rebuts the additional conclusion that the filename of the archived email is evidence that the donor was granting permission to

⁵ Email from Chris Maloney to David Schmidt (6/30/09 12:46 AM).

the Center to hire faculty. Chris Maloney saved the file with that name and as his letter makes clear, the Thomas W. Smith Foundation did not “grant permission” for any hire.

- iii. James Pierson, who is mentioned in the quoted material, provides his own testimony, included here with permission:

“I can say that I never exercised any influence on the hiring of faculty in the Freedom Center; nor did I ever wish to exercise any such influence. The TWS Foundation allocated funds to the Center to support the hiring of new faculty, and we left those decisions in the hands of Prof. Schimidtz and his colleagues.”

- iv. Professor Schimidtz is free to base his professional preferences for the hiring of candidates in anyway he chooses, including on the basis of his beliefs about whether certain donors would be “OK” with them. Expressing this belief to the Head of the Department of Philosophy (Professor Chris Maloney) is not evidence of impropriety by the Center but rather falls within Professor Schimidtz’s rights as a faculty member in the Department of Philosophy. Indeed, the Report fails to show that Professor Schimidtz would have changed his hiring preferences if the donor had not been “ok” with them. Hence, the conclusion that the Center allowed improper influence is unsupported even if one was to assume that the Center had the power to direct the decision of the Department of Philosophy — a power which the Center does not, and cannot, have. If this is what the Report means by improper influence, it fails to support this allegation. It neither provides evidence that the donors had the ability to alter Professor Schimidtz’s hiring preferences nor that the Center as represented by Professor Schimidtz had the ability to influence the Department of Philosophy’s hiring process.
- v. The decision to hire [redacted] as a tenured full professor was not a decision made by the Center; those were deliberations in the Department of Philosophy and a decision reached by the Department of Philosophy. At any point, that department could have decided to not hire [redacted], hire someone else, and indeed to not hire anyone at all. The Center did not and could not have acted improperly in a decision made within another unit. Moreover, the Report does not mention or provide any evidence concerning these deliberations. Therefore,

the accusation of improper donor influence is unsupported by any evidence.

Therefore, the Committee draws conclusions on an erroneous representation of facts when it states that inappropriate donor “influence was exerted in the hiring of [redacted] and [redacted], who were recruited by the Freedom Center in 2010 (both were also given appointments in the Philosophy Department, where they remain today).”

2.3 Hiring process in the Department of Philosophy

As we have stressed, the Department of Philosophy was the recruiting unit for both hires; the Center provided financial support for their appointments (and both hires were also initially given positions in the Center). Hence, the Committee’s allegation of improper donor influence can only be referring to impropriety that took place in the Department of Philosophy’s hiring process. Yet, the Report does not include or rely on any evidence from the Department of Philosophy’s hiring process or evidence from any members of the search committee, even though in both cases the Department of Philosophy conducted extensive searches.

Testimony from those on the search committee indicates that the searches were thorough, extensive, and not “inappropriately” influenced by donors in any way. We quote, with permission, from one such search committee member:

“Jerry Gaus, Tom Christiano, Dave Schmidtz, Julia Annas and others spent time discussing candidates in moral and political philosophy. Shaun Nichols and others participated in discussing potential candidates in action theory. We all made suggestions and almost all of the suggestions of each one of us (including Dave) were shot down for one reason or another having to do with the scholarship and academic reputations of the potential candidates. A hiring committee was formed to look over dossiers and read papers and books of different suggested candidates that survived this process. This was an arduous process and involved a number of weeks of debate among the members of the committee. At no time in this process was there any discussion of what donors might want. The list of people we arrived at was the result of this process . . . The claim

that the ad hoc committee is concerned with respect for the academic autonomy of the Center or the Departments is belied by the fact that they chose not to interview anyone in those departments to inquire into their actions.”

Merely informing donors about the intent to use donor funds is not evidence of “inappropriate influence”. Indeed, this is consistent with the Donor Bill of Rights, which the University of Arizona Foundation has adopted, according to which donors have the right

“To be informed of the organization’s mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.”⁶

And certainly this is not evidence of impropriety by the Center since the hiring deliberations and decisions in question were not hiring deliberations and decisions undertaken by the Center. Moreover, it is false that these hires would not have been made but for the “approval” of the donors. The hires in question are internationally recognized philosophers of the highest caliber and have been excellent members of the University since their arrival.

2.4 Email from Professor Schmidt (09/06/2018)

The Report asserts the following:

“In 2018, the PEMS Department was hiring faculty with money provided by the Thomas W. Smith Foundation. David Schmidt wrote to a representative of the Smith Foundation, complaining that he ‘was bogged down waiting for various constituencies to accept they have no right and no power to divert the search to some cause other than what TWS [Thomas W. Smith Foundation] wanted to support.’ The wording suggests that Schmidt is forcefully defending the donor’s right to influence hiring of University faculty.”

The allegation that the Center acted inappropriately is unsupported by this evidence, for several reasons.

⁶ https://uafoundation.org/sites/default/files/2023-01/Donor_Bill_of_Rights.pdf. Emphasis added.

- i. This alleged instance of influence refers to a then-ongoing search in the Department of Political Economy and Moral Science, and does not involve the Center in any way as no member of that Department from that time joined the Center. Therefore, the accusation of inappropriate donor influence is factually erroneous and unsupported by any evidence.
- ii. The email in question seems to be referencing a well-documented dispute wherein Professor Schmitz believed that others in the College of Social and Behavioral Sciences were attempting to divert donor resources away from hiring core faculty for the then-imagined Department of Political Economy and Moral Science. We have no opinion about the accuracy of that belief.⁷

2.5 Interim summary

In all cases, the Center abides strictly to the terms of agreement in its donor letters, written and executed by the University of Arizona Foundation, and in no cases have the Center's donors selected, voted on, or vetoed an appointment in the Center. The allegations to the contrary are without basis in fact or in evidence.

Finally, we note that the Report, in recklessly airing these allegations without evidence or basis in fact and without a good faith attempt at information gathering, not only harms the Center but, more importantly, harms the reputations of our colleagues who were hired in the course of these searches.

3 Allegations regarding legislative influence on hiring

The Report alleges that "Arizona legislators who are funding the Freedom Center will be allowed to influence the hire" in the context of a recent faculty search by the University of Arizona Department of Philosophy that was

⁷ We note, however, that no hire was made using that initial investment from the Thomas W. Smith Foundation in 2017 and those resources have instead been used to pay existing faculty members summer salary support and scholarships for students in the Master of Legal Studies M.A. program. To forestall confusion: when the Center decided to use the funds in this way, it communicated with the Thomas W. Smith Foundation; they were in agreement that this would be a productive use of resources.

financially supported by the Center. This allegation is again based on a factually inaccurate representation and is unsupported by any evidence.⁸

3.1 Department of Philosophy meeting minutes

The purported evidence that the Report cites for this allegation is the following excerpt from the minutes from a Department of Philosophy meeting of its faculty in November 2022.

“AA [Chairing the meeting): We will also be engaging in a search for an associate professor of political philosophy, funded by the FC [Freedom Center] for the first 3 years We are looking for someone in the classical liberal tradition, because with Dave [FC founder David Schmitz] leaving, they want to maintain balance in the Freedom Center. Those supplying state funding want this too ...

BB: I support this. I’m not especially happy with state funding controlling the focus, but if we agree we need someone in the classical liberal tradition, that seems fine. The relationship with FC is integral to our dept

CC: . . . it’s nice to know who’s calling the shots. What’s the interest of those providing state funding?

AA: Their reasons are unclear, though we are more vulnerable if we don’t appease those supplying this state funding.”

The allegation is unsupported by this purported evidence, for several reasons.

- i. The quoted material expresses the beliefs of individual members of the Department of Philosophy. We believe the quote from AA represents a simple miscommunication:
 - a. the Center decided to try to replace Professor Schmitz with someone who also works in classical liberalism;

⁸ We note here, without additional comment, the absurdity of this allegation on its face. Is the Report alleging that members of the legislature in the State of Arizona are actively involved in faculty searches? This strains credulity.

- b. the Center communicated this to someone in legislative affairs at the University of Arizona, and they agreed this seemed prudent;⁹
 - c. this was communicated to the Department of Philosophy.
 - d. These are not “members of the legislature” but employees of the University of Arizona.
- ii. There is nothing objectionable about conducting a search in this specific area, and both the Center and the Department had legitimate reason to do so in this case.
 - iii. These deliberations cited were deliberations within the Department of Philosophy. Therefore, in concluding that the Arizona legislators will be allowed to influence the hire, the Report can only be referring to impropriety that took place within the context of those deliberations and, more broadly, the Department of Philosophy’s hiring process. However, the Report does not include or rely on any evidence from the Department of Philosophy’s hiring process or evidence from any members of the search committee.
 - iv. The Department of Philosophy was free to choose to not partner with the Center to conduct this search. As the quote from BB reveals: “if we agree we need someone in the classical liberal tradition, that seems fine.” It is up the Department to decide whether or not a targeted area search meets their needs, in the same way it is up to the Center to decide whether a targeted area search meets its needs.

3.2 Area search warranted

The Center, like any academic unit on campus, does not owe the Committee or any outside body an explanation for how it chooses to pursue its mission in ways it sees fit, including the personnel choices it makes. That is a bedrock of unit autonomy.

Nevertheless, here is an accurate statement of the facts. The Center receives money in the State of Arizona budget to pursue the Center’s mission. Part of the Center’s core mission is to provide for meaningful viewpoint diversity in the academy and having representation in the classical liberal tradition is a key part of that. Professor David Schmitdz, Founding Director of the

⁹ Regular communication between the Center’s leadership and legislative affairs is part of normal operations at the Center.

Center, was for many years an important part of this. In anticipation of his departure from the University of Arizona in December 2021, the Center wanted to sponsor the hiring of someone to fill this gap, in order to continue to pursue the Center’s mission. This is not “inappropriate” influence by the legislature. It is the Center seeking to pursue its mission in a way that it sees best. The Department of Philosophy, in this case and all others, was free to deliberate and decide whether a partnership was in their interest. If they did not want to search and hire a political philosopher working in the classical liberal tradition, they certainly could — and would — have decided not to. The Center could not and did not influence the Department of Philosophy’s decision.

We do not know why the Report spends time elaborating that Hayek and Milton Friedman are “libertarians”. In any case, it is not the Committee’s role to weigh in on what areas of political philosophy are worthy pursuits and what areas the Center should seek to hire experts in.

3.3 Testimony about the search process

The Report does not rely on any testimony or evidence about the search in question. We include here, with permission, testimony from the chair of the search committee about the hiring process:

“I was chair of the search committee for the philosophy department in its recent hire of an assistant professor. The position was advertised as one that sought candidates who had research interests in the classical liberal tradition. The Freedom Center had proposed to help fund this position. At the beginning of the search process, I asked the Director of the Freedom Center why the position needed to be advertised in that specific area as opposed a broad search in political philosophy with no restriction on area. I was told that it is a core part of the mission of the Center to support and maintain intellectual diversity, and that with the departure of the former director of the Center there was a need for the Center to appoint someone who worked in the classical liberal tradition. This seemed reasonable to me, and I also thought the philosophy department had its own reasons for searching in this area, as many of our top

graduate students in the past have had scholarly interests in classical liberalism.”

And here is testimony from another member of the search committee:

“I was a member of the search committee. [redacted] was not. I remember him saying stuff about ‘who is calling the shots’ in one department meeting and all I could muster was an eye roll. Had I known the minutes would be shared and interpreted like tea leaves, I would have said something at the time. For the record: of course there was no influence by the legislature. The very idea would be hilarious if someone weren’t taking it seriously. The argument I presented to the search committee and the Department was so obvious I couldn’t believe it needed saying out loud: (i) the Center has reasons to want to hire someone in this area; (ii) we have reason to want to hire in this area; (iii) we desperately have to hire (since our previous external review our faculty has contracted by half); (iv) ain’t no way SBS is giving us money to hire anyone; so (v) if we want to hire, we ought to do a joint hire in this area with the Center. I don’t recall [redacted] saying which premise he didn’t like.”

The Department of Philosophy conducted this search as it conducts any search.

- i. The Department of Philosophy voted, overwhelmingly, to conduct a search with the aim of hiring an Assistant Professor working in the area of classical liberalism.
- ii. The Dean of the College of Social and Behavioral Sciences approved this search, in this area.
- iii. The Department of Philosophy formed a search committee, placed a standard advertisement for applications, conducted interviews and campus visits, and finally, voted overwhelmingly in favor of the successful candidate. The Dean approved the hiring.

Finally, we note again that the Report, in recklessly airing these allegations without evidence or basis in fact and without a good faith attempt at information gathering, not only harms the Center but, more importantly, harms the reputation of our colleague who was hired in the course of this search.

4 Allegations regarding donor influence on curriculum and teaching

The Report alleges “There is also substantial evidence that external donors to the Program in the Philosophy of Freedom that became the Freedom Center were allowed to influence the academic curriculum and selection of teaching personnel at a formative stage.” This is demonstrably untrue.

4.1 Randy Kendrick donor proposal (03/09/2004)

The Report quotes from a proposal dated March 9, 2004 to donor Randy Kendrick:

“There is no reason to turn this process into a bureaucratic tangle. On an annual basis, Dr. Schmitz will submit a plan to his department head, Dr. Chris Maloney, including proposed candidates. When Chris approves the plan, they will send it to Randy Kendrick for further discussion and final approval.”

The Report alleges that this is evidence of “inappropriate donor influence” over curriculum and instructional staff decisions. It is not.

- i. The proposal is a document written and approved by the University of Arizona Foundation jointly with the Department of Philosophy. It was subject to the same oversight and approval as every donor proposal that the Foundation executes. If the language in it were evidence of impropriety, the Foundation would not have approved it.
- ii. The quoted material indicates that the on-going donation is subject to annual review, and that each year a plan on whether and how to continue would be agreed upon by both parties. This is not “inappropriate donor influence” but normal donor relations.
- iii. Neither the Center, nor the Program which it grew from, existed in 2004. Therefore the allegation of “inappropriate donor influence” over curricula and teaching is based on a misrepresentation of facts and unsupported by any evidence.

4.2 Randy Kendrick donor agreement (12/04/2026)

The Report asserts the following:

“The Kendricks attached a condition to their gift, as indicated by an addendum summarized shortly thereafter, which required that ‘the wealth creation course will be taught substantially per the syllabus provided,’ thereby indicating direct donor influence over the curriculum that would be offered at the University of Arizona, at least through the period of donations, if not indefinitely.”

This is interpretation, not fact: the addendum referred to is not such evidence.

- i. The addendum in question is an addendum to the donor agreement written and approved by the University of Arizona Foundation jointly with the Department of Philosophy. It was subject to the same oversight and approval as every donor proposal that the Foundation executes. If language in it were evidence of impropriety, the Foundation would not have approved it.
- ii. The course in question was subject to the same scrutiny and oversight as every proposal for new courses.
- iii. That a new course be taught “substantially per the syllabus provided” when the course was designed and approved during curricular review and approval is not evidence of impropriety. It represents best practices for curriculum development.
- iv. Therefore the addendum provides no evidence of impropriety and, in any case, no evidence of impropriety by the Center given that:
 - a. The Center did not exist in 2006.
 - b. The Center does not develop or teach any undergraduate courses.¹⁰
 - c. The University of Arizona course catalog confirms that the course number for “The Ethics and Economics of Wealth Creation” is PHIL 205, and is cross-listed in three additional departments: Economics, PEMS, and Public Administration & Policy. Note that this shows that not only was the course developed in the usual

¹⁰ Since 2020 the Center does develop and administer, jointly with the College of Law, the successful Masters of Legal Studies Law & Economics program. This is a Masters degree, consisting of graduate-level courses in the law school, but undergraduates are permitted to enroll in these courses.

way subject to the usual oversight, but that three additional units on campus have approved it for their curricular purposes.

- d. The course is part of the Philosophy, Politics, Economics, & Law major, which is not administered by the Center.
- e. The course is part of the University of Arizona Gen Ed (Building Connections) and Gen Ed Tier 2 (Individuals and Society) curricula. Note that this shows that the course and its syllabus was subject to additional review and approval by the General Education Office and the Gen Ed Refresh Committee.

Hence the allegation that there was “inappropriate donor influence” on the “The Ethics and Economics of Wealth Creation” course is based on factual mistakes and unsupported by any evidence.

4.3 Interim summary about donor agreements

It is notable that the Report does not include any information about donor agreements at the University of Arizona: it does not include any evidence that the donor agreements cited by the Report are in any way nonstandard or depart from best practices of donor agreements at the University of Arizona.

The Report further alleges:

“Donor agreements with the Freedom Center that have been released are only summaries of the agreements; the original documentation for these agreements have never been released. It seems unreasonable that the Freedom Center is allowed to keep its donor agreements secret, since the University of Arizona is a public university, supported by taxpayers.”

This is standard procedure by the University of Arizona Foundation. Donor agreements are executed through the Foundation, “a non-profit 501(c)(3) corporation which operates under a Development Services and Asset Management Agreement to raise funds for the University of Arizona”.¹¹ Corporations are not subject to public records requests.

¹¹ *University of Arizona Foundation Financial Services Policies & Procedures Manual*, p.3.

5 Concerns about the committee's activity

We have serious concerns about how the Committee investigated these issues and delivered its “findings”. The threat of censure — advocated by a committee whose charge was to be a “conversation starter” — may obstruct the Center’s ability to pursue key parts of its mission, which is promoting viewpoint diversity and fostering constructive debate. Members of the Committee may not like the Center’s mission, but it is recognized by the University of Arizona and the Arizona Board of Regents as a legitimate academic mission and the Center has the right to pursue its mission without this interference. That is central to academic freedom.

5.1 Limited evidence

The Report does not draw on obvious sources of evidence.

- i. The Center would have welcomed the opportunity to provide input and answer any questions raised by the Committee. Instead, the Report is not informed by any input, feedback, or counsel of any kind from the Center or its leadership.
- ii. Similarly, the Report is not informed by any input, feedback, or counsel of any kind from the current leadership in the Department of Philosophy or the Department of Political Economy and Moral Science.
- iii. The Report’s evidence consists in its entirety of the following: 3 partially quoted emails without context; 1 excerpt from unapproved draft minutes from a Department of Philosophy faculty meeting; and 2 partially cited donor agreements. It does not include any corroborating evidence of any kind for any of its allegations.
- iv. Although the Report alleges impropriety in faculty hiring, it does not include or rely on any evidence from any members of any search committees.
- v. Although the Report alleges impropriety in curriculum development, it does not include or rely on any evidence from members of any curriculum committees, either in the Department of Philosophy or in any other unit in the university.
- vi. The Report cites portions of donor agreements as evidence of impropriety but does not include evidence or testimony from the University

of Arizona Foundation as to whether these donor agreements are problematically unusual, not keeping in best practices, or improper in any way.

5.2 Collective and misdirected punishment

The Report seeks to blame the Center and its current members for actions undertaken by others.

- i. The Report willfully obscures the fact that Professor Schmitz is no longer a member of the faculty at the University of Arizona and is not the Director of the Center.
- ii. No core faculty member currently in the Center worked at the University of Arizona prior to 2010, many joining the Center only in 2021.
- iii. The actions that the Report alleges to be improper were actions undertaken by individual faculty members, other units on campus, and the Arizona Board of Regents.

5.3 Defamation per se

The baseless allegations in the Report may cause damage to the professional reputations of the Center, its members, and donors.

- i. The Report's attempts at preserving the anonymity of the faculty involved are woefully inadequate. The Report claims to redact the names of the faculty members hired in the text but:
 - a. the names are not redacted in the files linked to; and
 - b. simply copying and pasting from the Report itself reveals the names of the faculty members in question.
- ii. In alleging impropriety in faculty hiring without evidence or basis in fact, the Report harms the reputations of the faculty hired.
- iii. In alleging impropriety in faculty hiring without evidence or basis in fact, the Report harms the reputations of the faculty conducting the searches, and the department in which those searches were conducted.

- iv. In alleging “inappropriate” donor influence without evidence or basis in fact, the Report harms the reputations of valuable donors to the University of Arizona and the University of Arizona Foundation.

5.4 Apparent chair bias

The Report’s conclusions seem to have been preordained. In fact, the Committee chair, Professor David Gibbs, has publicly acknowledged as much:

“Dr. David N. Gibbs, a respected Professor of History at the University of Arizona, is calling for the Republican-financed, Koch-sponsored ‘Freedom Center’ to be kicked out of the university’s academic program....‘The freedom center is the academic unit of the Republican party,’ Gibbs said. ... Dr. Gibbs explained that the freedom center is the work of deep lobbying by right-wing donors, who are corruptly given control of which professors are hired.”¹²

The story quoted is from February 2, 2021 about an appearance by Professor Gibbs on January 26, 2021 at a meeting of the LD9 Democrats. The Committee was formed October 3, 2022. We question whether Professor Gibbs was an appropriate choice to chair the Committee.

In any case, this is a baseless allegation. Professor Gibbs’ opinion does not accurately reflect the faculty in the Center or their research. For instance:

- i. Not all core faculty in the Center are philosophers.
- ii. Not all core faculty in the Center who are philosophers are political philosophers.
- iii. Not all core faculty in the Center who are political philosophers work in the classical liberal tradition.

6 General concerns about funding sources

The Report is approximately 4,000 words in length. It devotes approximately 800 words to presenting its case that the 3 hires in the Department of Philosophy were subject to “inappropriate influence”. By contrast, it devotes over 1,200 words to airing general lamentations and “concerns” over private

¹² <https://thedgt.org/professor-expel-the-koch-sponsored-freedom-center-from-the-university-of-arizona/>

and public funding in higher education and, by association, the Center. Somehow this is supposed to be evidence of impropriety by the Center.¹³

6.1 Private funding

Much of the Report is devoted to using the Faculty Senate as a tool to lament the fact that private donors, like the Koch Foundation, were once prolific donors to various institutes in higher education. It then suggests that since in the opinion of members of the Committee the Koch Foundation represents politically distasteful views, it must follow that receiving funds from the Koch Foundation is evidence of impropriety.

To be clear:

- i. Receiving funds from private donors is not evidence of impropriety.
- ii. Pursuing legitimate academic interests consistent with the donor agreements for those funds is likewise not evidence of impropriety.

Concluding otherwise for transparently political reasons is a threat to academic freedom.

6.2 Public funding

The Report claims:

“In addition, we find the use of line-item funding by the state legislature for the Freedom Center to be in violation of principles of shared governance and academic freedom. The earmarking of public funds to specific departments or programs contravenes the process by which shared governance bodies, such as the Strategic Planning and Budgetary Committee and the Faculty Senate, collaborate with administrative authorities in order to approve curricula and allocate funding across campus departments.”

¹³ The Report spends approximately 300 words discussing the name ‘Department of Political Economy and Moral Science’, suggesting something nefarious because “The name change was undertaken without approval from the Faculty Senate”. Surely the Committee knows that it is the Arizona Board of Regents which has the sole authority of approving new academic units.

The Report does not contain any argument, principled or otherwise, for this “finding”. It is factually inaccurate, and based on bad faith representation of the facts.

- i. The Center does not operate outside of university governance: it is overseen and reports to the Office of Research, Innovation, and Impact.
- ii. The “finding” is pure opinion, not evidence of any impropriety. The Committee or its members might have the personal political opinion that it is not right that the State of Arizona has decided to fulfill certain parts of its mission to higher education through the use of directed funds, but that opinion is not probative.
 - a. Whether to allocate funds directly to a unit is the State’s prerogative, not the Committee’s and not the Faculty Senate’s.
 - b. Receiving directed funds from the State of Arizona is not improper, regardless of the political opinions of the members of the Committee.
- iii. All of the following units at the University of Arizona also have received direct line-item funding in the state budget:
 - a. Agriculture
 - b. Arizona Cooperative Extension
 - c. College of Veterinary Medicine
 - d. Kazakhstan Studies Program
 - e. Natural Resource Users Law and Policy Center
 - f. School of Mining and Mineral Resources
 - g. Sierra Vista Campus

We assume the Committee does not have similar “concerns” about these units and is not drafting a resolution to censure them.

7 Conclusion

In closing, we note that the Report seems to be a thinly veiled and politically motivated call to close the Center. This is both a threat to unit autonomy and to academic freedom.

Moreover, the Report attempts to paint the Center and its members as ideologically motivated and insinuates that it and its members harbor political views that the Committee finds distasteful. The truth is that the Center has helped recruit and retain internationally renowned faculty who represent diverse methodologies, diverse disciplines, and diverse viewpoints, who conduct excellent research into a broad range of topics consistent with the Center's mission. Concluding otherwise, and advocating for sanctions against the Center and by association its members on the basis of personal political opinion, is a threat to academic freedom.

Since the conclusions about "inappropriate" donor influence in the Report are not supported by evidence, we hope the Committee and the Senate will act accordingly.

Signatories

Mary L. Rigdon, Director
Associate Professor, PEMS
ALI 2023

Saura Masconale, Associate Director
Assistant Professor, PEMS
ALI 2022

Anthony S. Gillies, Core Faculty
Sherwin Scott Professor of Philosophy

Robert E. Gordon, Core Faculty
Assistant Research Professor

Lynn A. Jansen, Core Faculty
Associate Research Professor

Hrishikesh Joshi, Core Faculty
Assistant Professor of Philosophy

Simone Sepe, Core Faculty
Chester H. Smith Professor of Law & Finance

Steven Wall, Core Faculty
Professor of Philosophy