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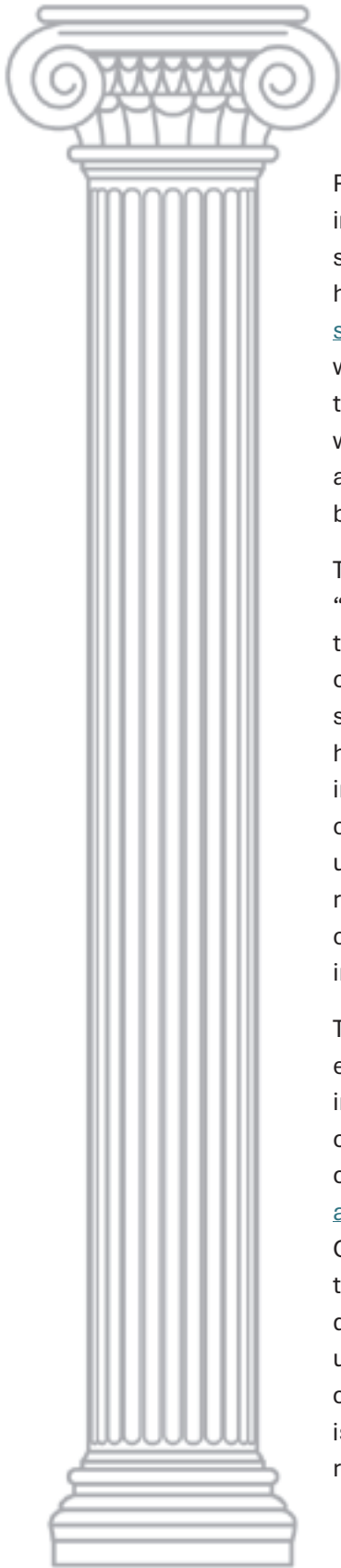
A HIGHER EDUCATION POLICY BULLETIN

Conflicts in the Compact

President Donald Trump's "[Compact for Academic Excellence in Higher Education](#)" has had the industry buzzing. Detractors call it a "[Faustian bargain](#)" and a partisan "[loyalty oath](#)," while supporters hold it up as a "[reasonable](#)" and "[much-needed](#)" reform. As debate rages, pressure has begun to build, as some state lawmakers have urged their public colleges and universities to [sign](#) or [reject](#) the administration's proposal. Given the recent suggestion that "[any institution](#)" is welcome to sign on, this stress is unlikely to wane, necessitating swift action by boards of trustees. Colleges and universities cannot rely on passivity here, nor should boards be satisfied with performing a surface-level reading of the trade journals before deciding on a course of action that could shape their institution for years to come. Informed governance demands that boards fully review the administration's proposal.

The heart of the compact and its [cover letter](#) is a simple quid pro quo: Signatories will receive "substantial and meaningful" financial benefits in return for implementing a number of reforms that the administration has called for since January. Indeed, many of the requirements in the compact, such as banning the consideration of "sex, ethnicity, race, nationality, political views, sexual orientation, gender identity, religious associations, or [their] proxies" in admissions and hiring, mirror demands made in previous [executive orders](#). Attempts by the administration to impose these reforms led to a flurry of [litigation](#), and several [injunctions](#) continue to stall or outright stop their enforcement. The compact can thus be seen as a bid to entice colleges and universities into voluntary compliance with the administration's priorities by offering a carrot rather than a stick. However, this reform is undermined by the fact that some of its elements rest on untested legal theories, while others directly threaten free speech, academic freedom, and institutional autonomy.

The compact includes several provisions that will likely run afoul of the First Amendment, most egregiously the requirement that signatories must consider "transforming or abolishing institutional units that purposefully punish, belittle, and even spark violence against conservative ideas." The administration's aim to combat political bias, which is pervasive on college campuses, is a noble goal, but given that this framing lacks "[narrowly drawn, reasonable and definite standards](#)," it would require institutions to censor protected speech. The Supreme Court has long [recognized](#) that "it is not merely the sporadic abuse of power by the censor, but the pervasive threat inherent in its very existence that constitutes the danger to freedom of discussion." As the compact appears to empower the Department of Justice to declare unilaterally that an institution is in violation, this provision would have a chilling effect on campus speech. The fact that the compact is a voluntary agreement does not resolve these issues, as many [long-standing precedents](#) limit the government's ability to offer a contract that requires signatories to relinquish their constitutional rights.



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The administration frequently cites the 2023 case [Students for Fair Admissions v. Harvard](#) (SFFA v. Harvard) as justification for its [demand](#) that institutions adopt merit-based practices in admissions and hiring. The problem with this interpretation is that SFFA v. Harvard was explicitly decided upon very narrow grounds, dealing only with race-based affirmative action in admissions. In fact, the Supreme Court has been largely silent on how the decision should be applied to hiring practices and has [declined](#) to take up additional cases that would allow the court to impose further restrictions on how schools make admissions decisions.

The compact further stretches the framework established in SFFA v. Harvard by requiring signatories to base their admissions solely upon “objective criteria” and demanding that institutions reject the consideration of “political views” in student admissions or financial support. As well as producing additional legal concerns, these requirements would limit the ability of colleges to consider factors such as mission fit. Setting aside the wisdom of allowing the Department of Justice to determine what is and is not a protected “political view,” these requirements may be particularly onerous for private colleges with a narrow mission focus, as signing the compact may abrogate the board’s responsibility to steward the development of holistic, legal, and fair admissions criteria as envisioned in the Chief Justice’s majority opinion.

As mission-driven entities, colleges and universities must look to their stated purpose to determine how best to seek truth and serve their communities. Given the centrality of research and teaching, institutions clearly need to cultivate a campus culture that prizes intellectual diversity and the free exchange of ideas. Balancing the needs of these sometimes-competing interests is ultimately the task of the university governing board. While public colleges have a legal obligation to uphold the First Amendment freedoms of faculty, students, and staff to the broadest possible degree, private institutions do not, and thus their mission must serve as a lodestone. Environmentally minded colleges may favor students who respect the natural world. HBCUs and Hispanic-serving institutions may strive to serve underrepresented populations. How and to what degree are questions for their boards. The compact’s attempt to impose a single orthodoxy on higher education as a whole usurps the authority of each institution to define how best to resolve these thorny problems.

This gets at the heart of the issue with the compact: It is government overreach. Many of the proposed reforms would be laudable if overdue when undertaken at the institutional level but become chilling when tied to federal authority. Colleges’ fundamental values of institutional autonomy and academic freedom are best stewarded by those with firsthand knowledge of their colleges and the communities they serve. It is for this reason that trustees—acting in their [full capacity](#) as “mediating agents between the interests of the institution and the needs of the surrounding society”—rather than political appointees, should lead efforts to reform colleges and universities.