

Are You Now or Have You Ever...

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If you want to take a job at some public universities in Ohio, you'll need to fill out a form declaring that you have no ties (as described in six broad questions) to any terrorist groups as defined by the U.S. State Department.

The form was created this year by Ohio law and applies to all new employees of state agencies. The universities that are starting to have new employees fill out the forms say that they are just following the law. But the American Association of University Professors says that the forms are even broader than McCarthy-era loyalty oaths, are unconstitutional, and "gravely" threaten academic freedom.

In a letter sent to the president of the University of Akron, one of the institutions starting to use the forms, the AAUP said that asking potential faculty members to certify that they have never provided any help to any such group threatens "a broad range of clearly protected free speech and academic freedom." The letter was sent on the AAUP's behalf by Robert M. O'Neil, a professor of law at the University of Virginia and director of the [Thomas Jefferson Center for the Protection of Free Expression](#).

Akron officials said that they had surveyed all of the state's public universities and that all were using the form, although some were excluding graduate fellowships and many were not requiring student work-study employees to sign. Ohio State University and the University of Cincinnati confirmed that they were using the form.

The new form asks potential employees six questions and any "Yes" answer is grounds for not getting the job. Refusing to answer a question is also considered an affirmative answer. The questions are:

- . Are you a member of an organization on the [U.S. Department of State Terrorist Exclusion List](#)?
- . Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List?
- . Have you knowingly solicited fund or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List?
- . Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List?
- . Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S.

Department of State Terrorist Exclusion List?

- . Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting or carrying out an act of terrorism?

There is a provision for appealing a job denial related to refusing to fill out the form. However, the form required for an appeal asks many of the same questions in different ways. For example, to file an appeal, one would need to answer the question “to which organization on the Terrorist Exclusion List was material assistance provided?”

Academic groups have long opposed job requirements that include questions of the “are you now or have you ever been a member” variety. O’Neil of the AAUP said that the Ohio forms were more dangerous in some ways than those of the McCarthy era because the new requirements “are vaguer than those of the earlier era.”

Many professors who would never help a terrorist group in any way would balk at answering questions such as these, which could be subject to interpretation or be used against professors who hold unpopular views. He also noted that there is not always broad agreement on which groups are terroristic and that asking professors whom they have persuaded to hold certain views is antithetical to academic values in many ways.

Paul Herold, a spokesman for Akron, said that officials there were surprised to receive the AAUP letter because the university is only carrying out the law and so are many other universities. “We are an agency of the state. We are compelled to follow the law,” he said. “It is the role of the AAUP to speak out on these issues and not the role of the university.”

O’Neil of the AAUP said that the association would also protest to any other Ohio universities found to be having new faculty members fill out the forms. He noted a series of court cases rejecting loyalty oaths in various forms, and said that while he agrees that universities must follow the law, there is more to that than just going along. “A concerned administrator might in a case of uncertain application and constitutional doubt such as the one seek clarification, including a ruling by the state’s attorney general,” he said.

In 1970, O’Neil recalled, when John Millett was chancellor of the Ohio Board of Regents, he told legislators that he didn’t have time to appoint the hearing officers needed to carry out a law that was passed — to the dismay of many academics — to make it easier for public universities to kick out students who engaged in protests. The law wasn’t enforced, O’Neil said, in part because university administrators stood up for principles. “A simple administrative mandate should not end the matter,” he said of the current situation.

Another flaw in the new law, he said, is that it won't work. Would a terrorist committed to mass murder really lose sleep over giving a false answer on an Ohio form? "Real terrorists are not going to be deterred by this. If you have someone bent on infiltrating a state agency, it's not going to do anything," he said. All the new form does, he added, is create problems for "conscientious academics."

— **Scott Jaschik**