

United States

In the United States (US), Scholars at Risk (SAR) reported targeted harassment and disruption of online university events; pressures on individual scholars from political actors outside universities and from universities themselves; political and legislative attacks that seek to ban the teaching of particular scholarly doctrines; and travel restrictions, investigations, and prosecutions that undermine academic freedom for US-based and international scholars and students.

The US is bound by national and international legal instruments that provide protections for academic freedom. The US is a party to the International Covenant on Civil and Political Rights (ICCPR), which provides for freedom of opinion and expression (Article 19). The US is a signatory to, but has not ratified, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which provides for the right to education (Article 13) and calls on state parties to “respect the freedom indispensable for scientific research and creative activity” (Article 15(3)). Full exercise of academic freedom depends also on respect for institutional autonomy, defined as “that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights.”¹ The First Amendment of the US Constitution likewise protects freedom of expression, and the US Supreme Court has long recognized that academic freedom falls squarely within the First Amendment’s protections. Those protections include both the right to the free exchange of ideas among professors and students, and university autonomy.²

During this reporting period universities and colleges in the US were politicized in significant and concerning ways. As much academic activity and events remained online, targeted harassment of students and professors in the form of so-called

“Zoom-bombings”—the effective hijacking of online classes, meetings, ceremonies, and other events in which outside actors interject disruptive, harassing, offensive, or intimidating content, comments, or images—continued. Individual professors suffered retaliation for publicized instances of classroom expression. And political figures—including the former president, Donald Trump, and a number of state lawmakers—sought to ban or otherwise punish the teaching of particular academic material or doctrines, or individuals associated with them.

As the COVID-19 pandemic continued and worsened in the US in the fall and winter of the 2020-2021 academic year, much of university life continued online. Universities made apparent progress in developing security protocols and training members of their communities to prevent or minimize Zoom-bombings. However, Zoom-bombing continued to pose a threat to the university space, including in several incidents reported by SAR. At **Brandeis University**, multiple individuals disrupted a panel discussion titled “Cultural Genocide: An Overview of Uyghurs in Xinjiang, China,” focusing on the Chinese government’s treatment of the Uyghur population.³ Before it began, the panel was the subject of a coordinated letter campaign, charging that it would be biased. Shortly after the panel started, attendees began disrupting it, playing the Chinese National Anthem over their speakers and writing messages such as “FAKE NEWS” and “bullsh*t” over the presenters’ slides. At **Tufts University**, a public colloquium on “Diversity Equity and Inclusion in STEM” was disrupted

during a presentation by Karl Reid, the Executive Director of the National Society of Black Engineers, when an unidentified individual took control of the screen and wrote a racist term across the slides.⁴ Reid turned off the shared display screen and finished his presentation. The university police department subsequently launched an investigation. At the **City University of New York (CUNY)**, a virtual event celebrating Black History Month titled, “Diversity Through Hair,” was forced to shut down when as many as 20 individuals began disrupting it, first by playing loud, racist music, and then writing racist slurs into the chat feature and chanting the slurs through their microphones.⁵ According to CUNY’s chancellor, several online events celebrating Black History Month were similarly targeted.⁶

SAR has previously reported with concern instances of growing politicization of higher education, including efforts to inspire students to monitor and report their professors’ classroom conduct to parties outside of the higher education sector. During this reporting period, SAR found a number of apparently politically motivated actions targeting individual scholars at US higher education institutions, including suspensions, dismissals, and external attempts to pressure universities to take similar actions.

On September 8-9, 2020, professors around the United States participated in a national “Scholar Strike for Social Justice,” agreeing to stop their classes and focus instead on racial justice-related teaching and activities. Mississippi State Auditor Shad White called for the dismissal of **James Thomas**, a professor of sociology at the University of Mississippi, after he participated in the strike.⁷ White’s rationale was that the strike constituted a work stoppage by a public employee, illegal under state law. On September 14, White sent a letter to the university recommending Thomas’s termination. He later subpoenaed the university, demanding, among other things, Thomas’s class rosters, emails, and class schedules. Similarly, at Texas A&M University, authorities suspended sociology professor **Wendy Leo Moore** for two days without pay after she participated in the strike, on grounds she had violated a Texas law prohibiting “an organized work stoppage against the state or a political subdivision of the state.”⁸ At Cypress College, in California, adjunct professor **Faryha Salim**

was placed on administrative leave—purportedly for her safety—after a heated, in-class exchange with a student about so-called “cancel culture” and the role of police in US society.⁹ The student shared a video of the exchange with a reporter from the conservative publication *The Daily Wire*, and the video was uploaded on YouTube, leading to calls for disciplinary action against Salim. Violent threats were also directed at Salim and the college. At Collin College in Texas, professors **Audra Heaslip** and **Suzanne Jones** learned in January 2021 that their teaching contracts would not be renewed based on the objections of senior administration officials.¹⁰ The stated reasons for the decisions included the professors’ leadership in an academic union and their private and public criticism of the college’s handling of the COVID-19 pandemic. A third Collin College professor, **Lora Burnett**, was fired one month later, also in apparent retaliation for expression critical of the college’s COVID-19 response.¹¹ And at Linfield University, in April 2021, **Daniel Pollack-Pelzner**, a tenured English professor, was summarily terminated after he publicly advocated on behalf of students and faculty who complained about alleged sexual abuse by members of the university’s Board of Trustees.¹² Pollack-Pelzner also accused the university President and Chair of the Board of Trustees of making anti-Semitic remarks.

Among the most prominent pressures on higher education during this reporting period was a series of political efforts targeting specific academic doctrines, or the individuals who purportedly teach them. These pressures came alongside claims, often by conservative political actors, of left-wing “indoctrination” within US higher education. In July 2020, then-President Trump threatened to pull federal funding for higher education institutions that were engaged in what he called “radical left indoctrination.”¹³ Beginning in September 2020, he then targeted critical race theory, a decades-old academic movement focusing on the relationship between race, racism, and power.¹⁴ On September 22, he issued Executive Order 13950 instructing federal agencies and contractors to cease diversity trainings that focused on “critical race theory,” “white privilege,” and other ideas which he declared were “divisive” and “un-American.”¹⁴ He also denounced *The New York Times’ 1619 Project*, an in-depth examination of the impact of slavery in the US.

* It is important to note that President Trump and other politicians employ the label “critical race theory” broadly, going well beyond any definition that members of the academic movement of the same name would recognize. Kimberlé Crenshaw, a critical race theorist and a law professor at the University of California Los Angeles and Columbia University, has stated, “They’ve lumped everything together: critical race theory, the 1619 project, whiteness studies, talking about white privilege,” . . . “What they have in common is they are discourses that refuse to participate in the lie that America has triumphantly overcome its racist history, that everything is behind us. None of these projects accept that it’s all behind us.” See Fabiola Cineas, “Critical Race Theory, and Trump’s War On It, Explained,” *Vox*, September 24, 2020, <https://www.vox.com/2020/9/24/21451220/critical-race-theory-diversity-training-trump>.

President Trump's successor, President Joe Biden, rescinded Trump's Executive Order 13950 when he took office in January 2021. But in the months that followed, legislators in several US states began advancing legislation effectively banning critical race theory, the 1619 Project, and other ideas related to race and gender on higher education campuses, as well as in secondary and primary education. For example, in **Idaho**, a law was passed that explicitly identified critical race theory as a threat to fundamental rights such as freedom of inquiry and expression, and respect for the dignity of others, and banned educational institutions from spending money teaching the "tenets" of critical race theory and related ideas.¹⁵ On March 17, Idaho's State Legislature voted to cut over \$400,000 from Boise State University (BSU), specifically targeting the university's social justice programs.¹⁶ The bill also requires BSU, University of Idaho, Idaho State University, and Lewis-Clark State College to report to the Joint Finance-Appropriations Committee that no funds from student tuition or the general budget were used to "support social justice ideology student activities, clubs, events and organizations on campus."¹⁷ In **Oklahoma**, a law was signed on May 10, prohibiting educational institutions from teaching a range of broadly defined race- and gender-related concepts, including that of unconscious bias, or that "an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex."¹⁸ Following passage of the Oklahoma bill, **Oklahoma City Community College** "paused" a course on race and ethnicity out of concern that discussions of concepts like white privilege would run afoul of the law.¹⁹ The school later lifted the "pause," but introduced new course offerings so that students would not need to take the course in order to fill a requirement.²⁰ Legislation proposed in **Missouri** defined critical race theory broadly to include any teaching about systemic racism, specifically forbade certain curricula including *The New York Times'* 1619 Project, and proposed to strip state funding from schools and universities that transgress the law.²¹ Legislation proposed in **Louisiana**,²² **New Hampshire**,²³ and **Rhode Island**²⁴ would ban the teaching of "divisive concepts," such as the idea that systemic racism exists. And in **Florida**, the governor signed a law that, among other things, requires state higher education institutions to survey annually "intellectual freedom and viewpoint

diversity" and permits students to record video or audio of class lectures, without their lecturer's consent, in connection with complaints to their higher education institution or "as evidence in, or in preparation for, a criminal or civil proceeding" involving the same.²⁵ The legislation drew a number of concerns, including that it could chill rather than protect scholar and student speech, and that the survey results may be used to punish institutions.²⁶ Around the time the governor signed the legislation, Wilton Simpson, the Republican president of the state senate, claimed that universities lacked a "diversity of thought" and that there appeared to be "socialism factories" in the public university system.²⁷

Nikole Hannah-Jones, a Pulitzer Prize-winning journalist and creator of the abovementioned 1619 Project, was denied tenure at the University of North Carolina-Chapel Hill (UNC), despite support from faculty and a school leader, raising grave questions about politicization of the appointment process and other external influence over the same.²⁸ Hannah-Jones was offered the Knight Chair in Race and Investigative Journalism, a historically tenured position, at UNC's Hussman School of Journalism and Media. The School's dean reportedly stated that Hannah-Jones had gained "enthusiastic support" from the school's faculty and tenure committee. Conservative political actors and organizations expressed public and private criticism about the job offer. Months before news of the appointment even went public, major donor Walter Hussman Jr (the school's namesake), reportedly emailed multiple administrators, including the university's chancellor and the school's dean, describing "concerns" he had about Hannah-Jones' hiring. In one email, Hussman stated, "I worry about the controversy of tying the UNC journalism school to the 1619 Project," and that "based on her own words, many will conclude she is trying to push an agenda, and they will assume she is manipulating historical facts to support it."²⁹ According to Hannah-Jones' lawyers, the board declined twice, without explanation, to conduct a vote on whether to grant her tenure. In February 2021, the University reportedly offered her a fixed, five-year appointment after which she could be considered for tenure, which Hannah-Jones initially accepted. On June 30, in the face of widespread media attention, the Board of Trustees met and voted 9-4 in favor of approving Hannah-Jones for tenure. However, roughly one

* According to the law, the survey is to be selected or designed by the state's Board of Education and the state university system's Board of Governors and should consider "the extent to which competing ideas and perspectives are presented and members of the college community, including students, faculty, and staff, feel free to express their beliefs and viewpoints on campus and in the classroom." The law prohibits students who make recordings of lectures from publishing those same recordings without the faculty member's consent; however, this aspect of the law raises concerns that third parties may nevertheless attempt to publish those same recordings. See Florida State Legislature, House Bill No. 233, 2021 Regular Session, available at <http://laws.flrules.org/2021/159>.

week later, Hannah-Jones formally declined to take the tenured position at UNC and accepted a tenured faculty role at Howard University instead.

Restrictions on the inbound academic travel of entire classes of scholars or students, part of an executive order issued by former President Trump in 2017, continued into this reporting period. The order initially targeted Iran, Libya, Somalia, Sudan, Syria, and Yemen, six countries that, prior to the executive order, collectively sent more than 17,500 students and scholars to the US, according to data compiled by the Institute of International Education.³⁰ Eight more countries—Chad, Eritrea, Kyrgyzstan, Myanmar, Nigeria, North Korea, Tanzania, and Venezuela—were later added to the list. Human rights and higher education groups condemned the executive order and filed legal challenges, on grounds that it discriminated against Muslims and did little to address national security concerns, the purported intent of the Trump administration. The order was particularly punitive for scholars and students from the countries listed, as it impeded their ability to enroll in or work at US-based higher education institutions, or participate in international academic and scientific conferences in the US. In January 2021, President Joe Biden revoked the order shortly after his inauguration. By August 2021, most inbound travel remained limited as part of the government's COVID-19 response.

Over the last year, serious concerns were raised over the US Department of Justice's (DoJ) efforts to counter economic espionage and intellectual property theft through a program known as the China Initiative. The DoJ established the China Initiative in 2018, amid intense scrutiny of China by the Trump administration and growing restrictions on the inbound travel of Chinese scholars and students to the US. Agents pursuing cases under the China Initiative have investigated professors, researchers, and students—labeled as so-called “non-traditional collectors”—for allegedly engaging in intellectual property theft and withholding affiliations with academic and scientific institutions in China.³¹ More than a dozen scholars have been arrested and charged under the China Initiative since it was established, including **Anming Hu**, a University of Tennessee researcher with expertise in nanotechnology.³² The Federal Bureau of Investigation (FBI) accused Hu of hiding his affiliation with the Beijing University of Technology while seeking funding from the National Aeronautics and Space Administration (NASA). In February 2020, Hu was indicted on three counts of “wire fraud” and three counts of “making false statements.” In court proceedings, Hu's lawyer presented evidence that

Hu provided the University of Tennessee and NASA documentation of his affiliation with the Beijing University of Technology.³³ A federal agent working on the case told jurors that the FBI had put Hu under surveillance for two years after he declined to accept a proposal to engage in espionage activities on behalf of the US government.³⁴ In June 2021, jurors declared that they could not reach a verdict in Hu's case, prompting US District Court Judge Thomas Varlan to declare a mistrial.³⁵ Federal prosecutors prepared to retry Hu; however, on September 9, Judge Varlan acquitted Hu of all counts of wire fraud and making false statements.³⁶ One day before Hu's acquittal, a group of 177 Stanford University faculty members published an open letter to the US Attorney General, Merrick Garland, noting that most alleged crimes prosecuted under the China Initiative have “nothing to do with scientific espionage or intellectual property theft,” but rather—as in the cases of Hu and others, including Massachusetts Institute of Technology researcher **Gang Chen**—allegations of misconduct, “such as failure to disclose foreign appointments or funding.”³⁷ In some of these cases, the group wrote, “normal academic activities that we all do, such as serving as referees and writing recommendation letters, are adduced as evidence of ‘extensive dealings with [China].’” The Stanford faculty members, along with other groups, have also raised concerns that the China Initiative perpetuates racial profiling of scholars of Chinese and Asian descent in the US and risks undermining academic freedom, international scholarly collaboration, and ultimately US competitiveness in scientific research.³⁸

State attempts to limit the scope of teaching, research, and discussion in higher education institutions and targeted harassment of scholars and students encroach on both individual academic freedom and on the autonomy of the higher education sector. Broad-brush travel restrictions that directly impact large numbers of international scholars and students and investigative programs that appear to target scholars and students based on their racial or ethnic background or ancestry also undermine individual academic freedom as well as everyone's enjoyment of the benefits of international academic work and exchange. Scholars, students, and their higher education institutions require academic freedom and institutional autonomy to learn, teach, and expand society's understanding of pressing issues.

SAR calls on US lawmakers and other political actors to refrain from efforts to dictate the content of teaching or research, including through legislative,

executive, or private actions. Laws, regulations, and government programs relating to higher education must comport with international human rights and higher education standards and principles relating to academic freedom and institutional autonomy. SAR further calls on same state authorities, lawmakers, and political actors to promote academic freedom and institutional autonomy. SAR also urges higher education stakeholders, including institutional leaders and associations, to promote and demand respect for institutional autonomy and the academic freedom of their scholars and students, including by publicly advocating against external pressures on academic activity, including any such legislative or administrative actions.

ENDNOTES

1. See UNESCO, "Recommendation concerning the Status of Higher-Education Teaching Personnel," November 11, 1997, para. 17, http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html.
2. See Board of Regents of Univ. of Wis. System v. Southworth, 529 U.S. 217 (2000), J. Souter, concurring.
3. SAR Academic Freedom Monitoring Project (AFMP), November 13, 2020, <https://www.scholarsatrisk.org/report/2020-11-13-brandeis-university/>.
4. SAR AFMP, February 5, 2021, <https://www.scholarsatrisk.org/report/2021-02-04-tufts-university/>.
5. SAR AFMP, February 11, 2021, <https://www.scholarsatrisk.org/report/2021-02-19-city-university-of-new-york/>.
6. City University of New York, "Statement by Chancellor Matos Rodríguez Regarding Bias Attacks on Virtual Diversity Events," February 19, 2021, <https://www1.cuny.edu/mu/forum/2021/02/19/statement-by-chancellor-matos-rodriguez-regarding-bias-attacks-on-virtual-diversity-events/>.
7. SAR AFMP, September 14, 2020, <https://www.scholarsatrisk.org/report/2020-09-14-university-of-mississippi/>.
8. SAR AFMP, September 9, 2020, <https://www.scholarsatrisk.org/report/2020-09-09-texas-am-university/>.
9. SAR AFMP, April 30, 2021, <https://www.scholarsatrisk.org/report/2021-04-30-cypress-college/>.
10. SAR AFMP, January 28, 2021, <https://www.scholarsatrisk.org/report/2021-01-28-collin-college/> and <https://www.scholarsatrisk.org/report/2021-01-28-collin-college-2/>.
11. SAR AFMP, February 25, 2021, <https://www.scholarsatrisk.org/report/2021-02-25-collin-college/>.
12. SAR AFMP, April 27, 2021, <https://www.scholarsatrisk.org/report/2021-04-27-linfield-university/>.
13. Jeanine Santucci, "Trump asks Treasury Department to review universities' tax exemption over 'Radical Left Indoctrination,'" *USA Today*, July 10, 2020, <https://www.usatoday.com/story/news/politics/2020/07/10/trump-accuses-colleges-radical-left-indoctrination-threatens-tax-exemption/5415908002/>.
14. The White House, "Executive Order on Combating Race and Sex Stereotyping," September 22, 2021, <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>;
15. Fabiola Cineas, "Critical Race Theory, and Trump's War On It, Explained," *Vox*, September 24, 2020, <https://www.vox.com/2020/9/24/21451220/critical-race-theory-diversity-training-trump>.
16. Idaho State Legislature, House Bill No. 377, April 28, 2021, <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2021/legislation/H0377.pdf>.
17. SAR AFMP, March 17, 2021, <https://www.scholarsatrisk.org/report/2021-03-17-boise-state-university/>.
18. Kevin Richert, "'We are left with no other option:' Lawmakers cut into Boise State's budget," *Idaho Ed News*, March 3, 2021, <https://www.idahoednews.org/legislature/we-are-left-with-no-other-option-lawmakers-cut-into-boise-states-budget/>.
19. Oklahoma State Legislature, House Bill No. 1775, http://webserver1.lsb.state.ok.us/cf_pdf/2021-22%20ENR/hB/HB1775%20ENR.PDF.
20. Hannah Knowles, "Critical race theory ban leads Oklahoma college to cancel class that taught 'white privilege,'" *The Washington Post*, May 29, 2021, <https://www.washingtonpost.com/education/2021/05/29/oklahoma-critical-race-theory-ban/>.
21. Scott Jaschik, "Community College Ends 'Pause' for Course on Race," *Inside Higher Ed*, June 7, 2021, <https://www.insidehighered.com/quicktakes/2021/06/07/community-college-ends-%E2%80%98pause%E2%80%99-course-race>.
22. Missouri State Legislature, House Bill No. 952, 101st General Assembly, <https://www.house.mo.gov/billtracking/bills211/hlrbillspdf/2087H.02C.pdf>.
23. Louisiana State Legislature, House Bill No. 564, 2021 Regular Session, <https://legis.la.gov/legis/ViewDocument.aspx?d=1211990>.
24. New Hampshire State Legislature, House Bill No. 544, 2021 Regular Session, <https://legiscan.com/NH/text/HB544/id/2238380>.
25. Rhode Island State Legislature, House Bill No. 6070, 2021 Regular Session, <http://webserver.rilin.state.ri.us/BillText/BillText21/HouseText21/H6070.pdf>.
26. Florida State Legislature, House Bill No. 233, 2021 Regular Session, <http://laws.flrules.org/2021/159>.
27. Ana Ceballos, "State university faculty, students to be surveyed on beliefs," *Tampa Bay Times*, June 22, 2021, <https://www.tampabay.com/news/florida-politics/2021/06/22/state-university-faculty-students-to-be-surveyed-on-beliefs/>;
28. Emma Pettit, "Florida Law Will Require Public Colleges to Survey for 'Intellectual Freedom' and 'Viewpoint Diversity,'" *Chronicle of Higher Education*, June 23, 2021, <https://www.chronicle.com/article/florida-law-will-require-public-colleges-to-survey-for-intellectual-freedom-and-viewpoint-diversity>.
29. Ceballos, "State university faculty," June 22, 2021.
30. SAR AFMP, May 19, 2021, <https://www.scholarsatrisk.org/report/2021-05-19-university-of-north-carolina-at-chapel-hill/>.
31. John Drescher, "Nikole Hannah-Jones, a Mega-Donor, and the Future of Journalism," *The Assembly*, May 30, 2021, <https://www.theassemblync.com/long-form/nikole-hannah-jones-a-mega-donor-and-the-future-of-journalism/>.
32. Institute of International Education, "Open Doors," <https://www.iie.org/Research-and-Insights/Open-Doors>.
33. US Department of Justice, "Information about the Department of Justice's China Initiative and a compilation of China-related prosecutions since 2018," June 14, 2021, <https://www.justice.gov/nsd/information-about-department-justice-s-china-initiative-and-compilation-china-related>.

FREE TO THINK 2021 | United States

32. Paul Basken, "China spying case ends as US judge acquits Anming Hu," *Times Higher Education*, September 10, 2021, <https://www.timeshighereducation.com/news/china-spying-case-ends-us-judge-acquits-anming-hu>; Nathan M Greenfield, "Professor acquittal – Is China Initiative out of control?" *University World News*, September 25, 2021, <https://www.universityworldnews.com/post.php?story=20210924083109792>.
33. Jamie Satterfield, "University of Tennessee assured NASA that professor had no prohibited ties to China," *Knoxville News Sentinel*, June 8, 2021, <https://www.knoxnews.com/story/news/crime/2021/06/08/university-of-tennessee-assured-nasa-professor-no-prohibited-ties-china/7598606002/>; Paul Basken, "China spying case," September 10, 2021.
34. Ibid.
35. "Mistrial declared in case of University of Tennessee prof," *Associated Press*, June 16, 2021, <https://apnews.com/article/university-of-tennessee-tennessee-business-education-97a0d7a2c1e20ee5a3bc56f71953d9c>.
36. Ibid.
37. "Winds of Freedom," September 8, 2021, <https://sites.google.com/view/winds-of-freedom>.
38. See Asian Americans Advancing Justice, Brennan Center for Justice, APA Justice, "Letter to President-elect Joe Biden," January 5, 2021, <https://advancingjustice-aajc.org/sites/default/files/2021-01/Letter%20to%20President-elect%20Biden%20Re%20the%20China%20Initiative.pdf>; Representative Ted Lieu, "Rep. Lieu and 90 Members of Congress Urge DOJ Probe into Alleged Racial Profiling of Asians," July 30, 2021, <https://lieu.house.gov/media-center/press-releases/rep-lieu-and-90-members-congress-urge-doj-probe-alleged-racial-profiling>; APA Justice, Letter to Judge Thomas A. Varlan, August 20, 2021, https://www.apajustice.org/uploads/1/1/5/7/115708039/judgevarlan_20210820final.pdf.