

House File 744 - Enrolled

House File 744

AN ACT

PROVIDING FOR TRAINING, PROHIBITIONS, AND REQUIREMENTS RELATING TO FIRST AMENDMENT RIGHTS AT SCHOOL DISTRICTS AND PUBLIC INSTITUTIONS OF HIGHER EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 261H.2, Code 2021, is amended to read as follows:

261H.2 ~~Policy adoption~~ Public institutions of higher education — duties.

1. The state board of regents and the board of directors of each community college shall adopt a policy that includes all of the following statements:

~~1.~~ a. That the primary function of an institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. This statement shall provide that, to fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the first amendment to the Constitution of the United States.

~~2.~~ ~~a.~~ b. (1) That it is not the proper role of an institution of higher education to shield individuals from speech protected by the first amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

~~b.~~ (2) That it is the proper role of an institution of

higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the first amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of first amendment rights.

~~3.~~ c. That students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the first amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established first amendment principles.

~~4.~~ d. That the outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the first amendment to the Constitution of the United States.

2. The state board of regents shall develop materials, programs, and procedures to ensure that those persons who are responsible for discipline, instruction, or administration of the campus community, or who have oversight of student government organizations, or distribute activity fee funds, including but not limited to presidents, vice-presidents, deans, department directors, administrators, campus police officers, residence life officials, faculty, and members of student government organizations, understand the policies, regulations, and duties of the institution regarding free expression on campus consistent with this chapter.

3. a. Each public institution of higher education shall protect the first amendment rights of the institution's students, staff, and faculty and shall establish and publicize policies that prohibit institutional restrictions and penalties based on protected speech, including political speech, to the fullest extent required by the first amendment to the Constitution of the United States. A public institution of higher education shall not retaliate against a member of the campus community who files a complaint for a violation of this subsection pursuant to section 261H.5.

b. If it is determined, after exhaustion of all available administrative and judicial appeals, that a faculty member knowingly and intentionally restricts the protected speech or otherwise penalizes a student in violation of this subsection, the faculty member shall be subject to discipline by the institution through the normal disciplinary processes of the institution, and such discipline may include termination depending on the totality of the facts. If the faculty member is licensed by the board of educational examiners under chapter 272, the board of educational examiners shall conduct a hearing pursuant to section 272.13, and the faculty member may be subject to disciplinary action by the board.

Sec. 2. NEW SECTION. 261H.6 Training — first amendment to the Constitution of the United States.

Each public institution of higher education shall provide training on free speech under the first amendment to the Constitution of the United States to all students, faculty, and staff on an annual basis, which elected officials and staff shall be permitted to attend.

Sec. 3. NEW SECTION. 261H.7 Student government organizations — student fees — appeals — liability.

1. Each institution of higher education governed by the state board of regents shall make a student government organization's access to and authority over any moneys disbursed to the student government organization by the institution contingent upon the student government organization's compliance with the first amendment to the Constitution of the United States and the provisions of this chapter.

2. If, after exhaustion of all administrative appeals, it is determined that a student government organization knowingly and intentionally violated the first amendment rights of a member of the campus community or that an action or decision of a student government organization is in violation of this section, the institution shall suspend the student government organization's authority to manage and disburse student fees for a period of one year. During this period of suspension, such student fees shall be managed and disbursed by the institution.

Sec. 4. Section 272.2, subsection 14, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that the person knowingly and intentionally discriminated against a student in violation of section 261H.2, subsection 3, or section 279.73.

Sec. 5. NEW SECTION. **279.73 Intellectual freedom — protection — complaints.**

1. The board of directors of each school district shall protect the intellectual freedom of the school district's students and practitioners and shall establish and publicize policies that protect students and faculty from discrimination based on speech. A person shall not retaliate against a person who files a complaint for a violation of this section. If the person who files a complaint for a violation of this section is an employee of the school district, the provisions of section 70A.29 shall apply.

2. If the board of directors of the school district or a court finds that an employee of the school district who holds a license, certificate, statement of recognition, or authorization issued by the board of educational examiners under chapter 272 discriminated against a student or employee in violation of this section, the employee found to be in violation under this section shall be subject to a hearing conducted by the board of educational examiners pursuant to section 272.2, subsection 14, which may result in disciplinary action and the employee's employment may be terminated.

Sec. 6. Section 280.22, subsections 4 and 5, Code 2021, are amended to read as follows:

4. Each board of directors of a public school shall adopt rules in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its jurisdiction. The code shall incorporate all of the provisions of this section.

The board shall make the code available to the students and their parents.

5. Student editors of official school publications shall assign and edit the news, editorial, and feature content of

their publications subject to the limitations of [this section](#). Journalism advisers of students producing official school publications shall supervise the production of the student staff, in order to maintain professional standards of English and journalism, and to comply with [this section](#).

Sec. 7. Section 280.22, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A public school employee or official, acting within the scope of the person's professional ethics, if any, shall not be dismissed, suspended, disciplined, reassigned, transferred, subject to termination or nonrenewal of a teaching contract issued under section 279.13 or an extracurricular contract issued under section 279.19A, or otherwise retaliated against for acting to protect a student for engaging in conduct authorized under this section, or refusing to infringe upon student conduct that is protected by this section, the first amendment to the Constitution of the United States, or Article I, section 7, of the Constitution of the State of Iowa.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

PAT GRASSLEY
Speaker of the House

JAKE CHAPMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 744, Eighty-ninth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2021

KIM REYNOLDS
Governor