

**Senate File 478 - Introduced**

SENATE FILE 478  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1205)

**A BILL FOR**

1 An Act providing for training, prohibitions, and requirements  
2 relating to first amendment rights at school districts and  
3 public postsecondary educational institutions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 **261H.2 ~~Policy adoption~~ Public institutions of higher**  
4 **education — duties.**

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

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

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

21 ~~b.~~ (2) That it is the proper role of an institution of  
22 higher education to encourage diversity of thoughts, ideas,  
23 and opinions and to encourage, within the bounds of the  
24 first amendment to the Constitution of the United States, the  
25 peaceful, respectful, and safe exercise of first amendment  
26 rights.

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

34 ~~4.~~ d. That the outdoor areas of campus of an institution  
35 of higher education are public forums, open on the same terms

1 to any invited speaker subject to reasonable time, place,  
2 and manner restrictions that are consistent with established  
3 principles of the first amendment to the Constitution of the  
4 United States.

5 2. Each public institution of higher education shall  
6 develop materials, programs, and procedures to ensure  
7 that those persons who are responsible for discipline,  
8 instruction, or administration of the campus community, or  
9 who have oversight of student government organizations, or  
10 distribute activity fee funds, including but not limited  
11 to administrators, campus police officers, residence life  
12 officials, faculty, and members of student government  
13 organizations, understand the policies, regulations, and  
14 duties of the institution regarding free expression on campus  
15 consistent with this chapter.

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

26 b. If it is determined, after exhaustion of all available  
27 administrative and judicial appeals, that a faculty member  
28 knowingly and intentionally restricts the protected speech or  
29 otherwise penalizes a student in violation of this subsection,  
30 the faculty member shall be subject to discipline by the  
31 institution through the normal disciplinary processes of the  
32 institution, and such discipline may include termination  
33 depending on the totality of the facts. If the faculty member  
34 is licensed by the board of educational examiners under chapter  
35 272, the board of educational examiners shall conduct a hearing

1 pursuant to section 272.13, and the faculty member may be  
2 subject to disciplinary action by the board.

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

5     Each public institution of higher education shall provide  
6 to each member of the institution's student government  
7 organization instruction and training on the first amendment to  
8 the Constitution of the United States, including descriptions  
9 of what is or is not protected under the amendment.

10     Sec. 3. NEW SECTION. 261H.7 Race and sex stereotyping —  
11 training by institution prohibited.

12     1. For purposes of this section, unless the context  
13 otherwise requires:

14     a. "*Divisive concepts*" includes all of the following:

15         (1) That one race or sex is inherently superior to another  
16 race or sex.

17         (2) That the state of Iowa is fundamentally racist or  
18 sexist.

19         (3) That an individual, by virtue of the individual's race  
20 or sex, is inherently racist, sexist, or oppressive, whether  
21 consciously or unconsciously.

22         (4) That an individual should be discriminated against  
23 or receive adverse treatment solely or partly because of the  
24 individual's race or sex.

25         (5) That members of one race or sex cannot and should not  
26 attempt to treat others without respect to race or sex.

27         (6) That an individual's moral character is necessarily  
28 determined by the individual's race or sex.

29         (7) That an individual, by virtue of the individual's race  
30 or sex, bears responsibility for actions committed in the past  
31 by other members of the same race or sex.

32         (8) That any individual should feel discomfort, guilt,  
33 anguish, or any other form of psychological distress on account  
34 of that individual's race or sex.

35         (9) That meritocracy or traits such as a hard work ethic

1 are racist or sexist, or were created by a particular race to  
2 oppress another race.

3 *b. "Race or sex stereotyping"* includes any of the following:

4 (1) Ascribing character traits, values, moral and ethical  
5 codes, status, or beliefs to a race or sex, or to an individual  
6 because of the individual's race or sex.

7 (2) Assigning fault, blame, or bias to a race or sex, or  
8 to members of a race or sex because of their race or sex, or  
9 claiming that, consciously or unconsciously, and by virtue of  
10 persons' race or sex, members of any race are inherently racist  
11 or are inherently inclined to oppress others, or that members  
12 of a sex are inherently sexist or inclined to oppress others.

13 2. Each public institution of higher education may continue  
14 training that fosters a workplace and learning environment that  
15 is respectful of all employees and students. However, the  
16 president of a public institution of higher education shall  
17 ensure that any mandatory staff or student training provided  
18 by an employee of the institution or by a contractor hired by  
19 the institution does not teach, advocate, act upon, or promote  
20 divisive concepts. This subsection shall not be construed as  
21 preventing an employee or contractor who provides mandatory  
22 training from responding to questions regarding divisive  
23 concepts raised by participants in the training.

24 3. Institution diversity and inclusion efforts shall  
25 discourage students of the institution from discriminating  
26 against another for any characteristic protected under  
27 chapter 216 or the federal Civil Rights Act of 1964, Pub. L.  
28 No. 88-352, as amended. Each public institution of higher  
29 education shall prohibit its employees from discriminating  
30 against students for any characteristic protected under chapter  
31 216 or the federal Civil Rights Act of 1964, Pub. L. No.  
32 88-352, as amended.

33 4. This section shall not be construed to do any of the  
34 following:

35 *a.* Inhibit or violate the first amendment rights of students

1 or faculty, or undermine a public institution of higher  
2 education's duty to protect to the fullest degree intellectual  
3 freedom and free expression. The intellectual vitality of  
4 students and faculty shall not be infringed under this section.

5 *b.* Prevent a public institution of higher education from  
6 promoting diversity or inclusiveness, provided such efforts are  
7 consistent with the provisions of this section, chapter 216,  
8 and other applicable law.

9 *c.* Prohibit discussing divisive concepts as part of a larger  
10 course of academic instruction.

11 *d.* Create any right or benefit, substantive or procedural,  
12 enforceable at law or in equity by any party against the state  
13 of Iowa, its departments, agencies, or entities, its officers,  
14 employees, or agents, or any other person.

15 *e.* Prohibit a state or federal court or agency of  
16 competent jurisdiction from ordering a training or remedial  
17 action containing discussions of divisive concepts as a  
18 remedial action due to a finding of discrimination, including  
19 discrimination based on race or sex.

20 **Sec. 4. NEW SECTION. 261H.8 Student government**  
21 **organizations — student fees — appeals — liability.**

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

30 2. If, after exhaustion of all administrative or  
31 judicial appeals, it is determined that a student government  
32 organization knowingly and intentionally violated the first  
33 amendment rights of a member of the campus community or that  
34 an action or decision of a student government organization is  
35 in violation of this section, the institution shall suspend

1 the student government organization's authority to manage and  
2 disburse student fees for a period of one year. During this  
3 period of suspension, such student fees shall be managed and  
4 disbursed by the institution.

5 Sec. 5. Section 262.9, Code 2021, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 39. Appoint annually from among its  
8 membership a three-member nonpartisan free speech committee  
9 that shall receive complaints under section 261H.5 relating  
10 to the institutions of higher learning governed by the state  
11 board.

12 Sec. 6. Section 272.2, subsection 14, Code 2021, is amended  
13 by adding the following new paragraph:

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

19 Sec. 7. NEW SECTION. 279.73 Intellectual freedom —  
20 protection — complaints.

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

30 2. If the board of directors of the school district or  
31 a court finds that an employee of the school district who  
32 holds a license, certificate, statement of recognition, or  
33 authorization issued by the board of educational examiners  
34 under chapter 272 discriminated against a student in violation  
35 of this section, the board of educational examiners shall

1 conduct a hearing pursuant to section 272.13, and the  
2 employee may be subject to disciplinary action by the board of  
3 educational examiners pursuant to section 272.2, subsection 14.

4 Sec. 8. NEW SECTION. 279.74 Race and sex stereotyping —  
5 training prohibited.

6 1. For purposes of this section, unless the context  
7 otherwise requires:

8 a. "*Divisive concepts*" means the same as defined in section  
9 261H.7.

10 b. "*Race or sex stereotyping*" means the same as defined in  
11 section 261H.7.

12 2. Each school district may continue training that fosters  
13 a workplace and learning environment that is respectful of  
14 all employees and students. However, the superintendent of  
15 each school district shall ensure that any mandatory staff or  
16 student training provided by an employee of the school district  
17 or by a contractor hired by the school district does not  
18 teach, advocate, act upon, or promote divisive concepts. This  
19 subsection shall not be construed as preventing an employee or  
20 contractor who provides mandatory training from responding to  
21 questions regarding divisive concepts raised by participants in  
22 the training.

23 3. School district diversity and inclusion efforts shall  
24 discourage students of the school district from discriminating  
25 against another for any other characteristic protected under  
26 chapter 216 or the federal Civil Rights Act of 1964, Pub. L.  
27 No. 88-352, as amended. Each school district shall prohibit  
28 its employees from discriminating against students for any  
29 characteristic protected under chapter 216 or the federal Civil  
30 Rights Act of 1964, Pub. L. No. 88-352, as amended.

31 4. This section shall not be construed to do any of the  
32 following:

33 a. Inhibit or violate the first amendment rights of students  
34 or faculty, or undermine a school district's duty to protect to  
35 the fullest degree intellectual freedom and free expression.



1 The intellectual vitality of students and faculty shall not be  
2 infringed under this section.

3 *b.* Prevent a school district from promoting diversity or  
4 inclusiveness, provided such efforts are consistent with the  
5 provisions of this section, chapter 216, and other applicable  
6 law.

7 *c.* Prohibit discussing divisive concepts as part of a larger  
8 course of academic instruction.

9 *d.* Create any right or benefit, substantive or procedural,  
10 enforceable at law or in equity by any party against the state  
11 of Iowa, its departments, agencies, or entities, its officers,  
12 employees, or agents, or any other person.

13 *e.* Prohibit a state or federal court or agency of  
14 competent jurisdiction from ordering a training or remedial  
15 action containing discussions of divisive concepts as a  
16 remedial action due to a finding of discrimination, including  
17 discrimination based on race or sex.

18 Sec. 9. Section 280.22, subsections 4 and 5, Code 2021, are  
19 amended to read as follows:

20 4. Each board of directors of a public school shall adopt  
21 rules in the form of a written publications code, which shall  
22 include reasonable provisions for the time, place, and manner  
23 of conducting such activities within its jurisdiction. The  
24 code shall incorporate all of the provisions of this section.  
25 The board shall make the code available to the students and  
26 their parents.

27 5. Student editors of official school publications shall  
28 assign and edit the news, editorial, and feature content of  
29 their publications subject to the limitations of [this section](#).  
30 Journalism advisers of students producing official school  
31 publications shall supervise the production of the student  
32 staff, in order to maintain professional standards of English  
33 and journalism, and to comply with [this section](#).

34 Sec. 10. Section 280.22, Code 2021, is amended by adding the  
35 following new subsection:



1 penalizes a student, the faculty member shall be subject to  
2 discipline by the institution. The bill establishes similar  
3 requirements for school districts. If the faculty member or in  
4 the case of a school district, the school employee, is licensed  
5 by the board of educational examiners, the faculty member or  
6 school employee, as appropriate, may be subject to disciplinary  
7 action by the board.

8 If it is determined that a student government organization  
9 knowingly and intentionally violated the first amendment  
10 rights of a member of the campus community or is in violation  
11 of the provisions of the bill, the institution shall suspend  
12 the student government organization's authority to manage and  
13 disburse student fees for a period of two years, during which  
14 time the student fees shall be managed and disbursed by the  
15 institution.

16 Each public institution of higher education must provide  
17 to each student and each student government organization  
18 instruction and training on the first amendment to the  
19 Constitution of the United States, including descriptions of  
20 what is or is not protected under the amendment.

21 Each school district and each public institution of higher  
22 learning may continue all training that fosters a workplace  
23 that is respectful of all employees and students, but the  
24 superintendent of the school district or the president of the  
25 institution must ensure that any mandatory staff or student  
26 training provided by an employee of the school district or the  
27 institution or by a contractor hired by the school district  
28 or the institution does not teach, advocate, act upon, or  
29 promote divisive concepts, which the bill defines to include  
30 that one race or sex is inherently superior to another; that  
31 Iowa is fundamentally racist or sexist; that an individual,  
32 by virtue of the individual's race or sex, is inherently  
33 racist, sexist, or oppressive; that an individual should be  
34 discriminated against or receive adverse treatment solely or  
35 partly because of his or her race or sex; that members of one

1 race or sex cannot and should not attempt to treat others  
2 without respect to race or sex; that an individual's moral  
3 character is necessarily determined by his or her race or sex;  
4 that an individual bears responsibility for actions committed  
5 in the past by other members of the same race or sex; that any  
6 individual should feel psychological distress on account of  
7 that individual's race or sex; and that meritocracy or traits  
8 such as a hard work ethic are racist or sexist, or were created  
9 by a particular race to oppress another race.

10 The bill defines "race or sex stereotyping" as ascribing  
11 character traits, values, moral and ethical codes, status, or  
12 beliefs to a race or sex, or to an individual because of the  
13 individual's race or sex; assigning fault, blame, or bias to  
14 a race or sex; or to members of a race or sex because of their  
15 race or sex; or claiming that, consciously or unconsciously,  
16 and by virtue of persons' race or sex, members of any race are  
17 inherently racist or are inherently inclined to oppress others,  
18 or that members of a sex are inherently sexist or inclined to  
19 oppress others.

20 Institution diversity and inclusion efforts must discourage  
21 students of the school district or institution from  
22 discriminating against another for any characteristic protected  
23 under Code chapter 216 or the federal Civil Rights Act of 1964.

24 Nothing in the provisions relating to training prohibitions  
25 shall be construed to inhibit or violate the first amendment  
26 rights of students or faculty or undermine the institution's or  
27 school district's duty to protect intellectual freedom and free  
28 expression; prevent a school district or public postsecondary  
29 institution from promoting diversity or inclusiveness; to  
30 prohibit discussing divisive concepts as part of a larger  
31 course of academic instruction; to create any right or benefit,  
32 substantive or procedural, enforceable at law or in equity  
33 by any party against the state of Iowa, its departments,  
34 agencies, or entities, its officers, employees, or agents, or  
35 any other person; or to prohibit a state or federal court or

1 agency of competent jurisdiction from ordering a training or  
2 remedial action due to a finding of discrimination, including  
3 discrimination based on race or sex.

4 Each regents university shall make student government  
5 organization access to and authority over any moneys disbursed  
6 to the student government organization by the university  
7 contingent upon the student government organization's  
8 compliance with the first amendment to the Constitution of the  
9 United States and with Code chapter 261H.

10 If, after the exhaustion of administrative or judicial  
11 appeals, it is determined that a student government  
12 organization knowingly and intentionally violated the first  
13 amendment rights of a member of the campus community or that  
14 an action of a student government organization violated the  
15 provisions of the bill, the institution shall suspend the  
16 student government organization's authority to manage and  
17 disburse student fees for one year. During this period of  
18 suspension, such student fees shall be managed and disbursed  
19 by the institution.

20 The state board of regents must annually appoint from among  
21 its membership a three-member nonpartisan free speech appeals  
22 committee to receive complaints under Code section 261H.5  
23 relating to the institutions of higher learning governed by the  
24 state board.

25 Code section 280.22 provides that public school students  
26 have the right to exercise freedom of speech, including the  
27 right of expression in official school publications, with  
28 exceptions for materials that are obscene, libelous, or  
29 slanderous, or encourage students to commit unlawful acts,  
30 violate lawful school regulations, or cause the material  
31 and substantial disruption of the orderly operation of the  
32 school. Prior restraint of permitted materials is prohibited.  
33 Expression made by students in the exercise of free speech  
34 shall not be deemed to be an expression of school policy, and a  
35 public school is not liable for such expression.

1 The bill provides that a public school employee or official  
2 shall not be dismissed, suspended, disciplined, reassigned,  
3 transferred, subject to termination or nonrenewal of a  
4 teaching contract or an extracurricular contract, or otherwise  
5 retaliated against for acting to protect a student for engaging  
6 in conduct authorized under Iowa law pertaining to freedom of  
7 expression of public school students, or refusing to infringe  
8 upon student conduct that is protected by such Iowa law, the  
9 first amendment to the Constitution of the United States, or  
10 Article I, section 7, of the Constitution of the State of Iowa.

11 The bill modifies a requirement that journalism advisers  
12 of students producing official school publications supervise  
13 the production of the student staff in order to maintain the  
14 professional standards.

15 The bill provides that the written publications code that  
16 each school board is required to adopt under Code section  
17 280.22 shall incorporate all of the provisions of that Code  
18 section.

19 The bill may include a state mandate as defined in Code  
20 section 25B.3. The bill makes inapplicable Code section 25B.2,  
21 subsection 3, which would relieve a political subdivision from  
22 complying with a state mandate if funding for the cost of  
23 the state mandate is not provided or specified. Therefore,  
24 political subdivisions are required to comply with any state  
25 mandate included in the bill.