

House File 2106 - Introduced

HOUSE FILE 2106
BY FETT

A BILL FOR

1 An Act relating to education, including by modifying provisions
2 related to the protected speech and expression rights of
3 students enrolled in school districts, charter schools, and
4 innovation zone schools and the duties of the department of
5 education, and providing civil penalties.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 256.9, Code 2026, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 80. a. Annually distribute, both
4 electronically and by regular mail, the most recent version of
5 the United States department of education's guidance related to
6 constitutionally protected prayer and religious expression in
7 public elementary and secondary schools to all of the following
8 individuals:

9 (1) Each member of the board of directors of each school
10 district.

11 (2) Each member of the governing board of each charter school
12 established pursuant to chapter 256E.

13 (3) Each superintendent employed by each school district.

14 (4) Each principal employed by each school district.

15 (5) Each principal employed by each charter school
16 established pursuant to chapter 256E.

17 (6) Each principal employed by each charter school or
18 innovation zone school established pursuant to chapter 256F.

19 (7) Each teacher employed by each school district.

20 (8) Each teacher employed by each charter school established
21 pursuant to chapter 256E.

22 (9) Each teacher employed by each charter school or
23 innovation zone school established pursuant to chapter 256F.

24 b. Publish on the department's internet site a link to
25 the most recent version of the United States department of
26 education's guidance related to constitutionally protected prayer
27 and religious expression in public elementary and secondary
28 schools.

29 c. Develop and distribute to school districts, charter
30 schools established pursuant to chapter 256E, and charter schools
31 and innovation zone schools established pursuant to chapter
32 256F a professional development training program regarding
33 constitutionally protected prayer and religious expression in
34 public elementary and secondary schools.

35 NEW SUBSECTION. 81. Develop and distribute to school

1 districts, charter schools established pursuant to chapter 256E,
2 and charter schools and innovation zone schools established
3 pursuant to chapter 256F a model policy that, if adopted by a
4 school district, charter school, or innovation zone school, would
5 satisfy the school district's, charter school's, or innovation
6 zone school's responsibilities under section 279.89, subsection
7 4, paragraph "c", relating to the adoption of policies to ensure
8 compliance with federal religious expression standards.

9 Sec. 2. Section 256E.7, subsection 2, Code 2026, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. 0s. Be subject to and comply with the
12 requirements of section 279.89 relating to protected speech or
13 expression in the same manner as a school district.

14 Sec. 3. Section 256F.4, subsection 2, Code 2026, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. 0q. Be subject to and comply with the
17 requirements of section 279.89 relating to protected speech or
18 expression in the same manner as a school district.

19 Sec. 4. NEW SECTION. **279.89 Protected speech and expression**
20 **— prohibitions — enforcement.**

21 1. A school district shall not discriminate against or
22 penalize a student enrolled in the school district for doing any
23 of the following:

24 a. Engaging in religious, political, or ideological speech in
25 the same time, place, and manner, and to the same extent, that
26 other similarly situated students are authorized to engage in
27 speech at school.

28 b. Expressing a religious, political, or ideological
29 viewpoint in the same time, place, and manner, and to the same
30 extent, that other similarly situated students are authorized to
31 express views at school.

32 2. A school district shall allow a student who is enrolled in
33 the school district to engage in protected speech or expression
34 at school, which includes but is not limited to all of the
35 following activities:

1 a. Expressing a religious, political, or ideological
2 viewpoint on the topic or subject of discussion or study during
3 class.

4 b. Expressing religious, political, or ideological viewpoints
5 in a homework assignment, artwork, presentation, or other written
6 or oral assignments, without being discriminated against or
7 the imposition of an academic penalty based on the religious,
8 political, or ideological content of the student's expressions;
9 provided, however, that a school district shall assess a
10 student's written and oral assignments using ordinary academic
11 standards of substance and relevance and other legitimate
12 pedagogical concerns identified by the school district.

13 c. Organizing religious, political, or ideological gatherings
14 or clubs before, during, or after school to the same extent, and
15 with the same access to school facilities, as the school district
16 grants to other student-initiated gatherings and clubs.

17 d. Wearing clothing, accessories, and jewelry that display
18 religious, political, or ideological messages or symbols in the
19 same manner, and to the same extent, as the school district
20 permits other students to wear clothing, accessories, and jewelry
21 that display messages and symbols.

22 3. A school district shall not discriminate against a club
23 organized by a student enrolled in the school district because of
24 any of the following:

25 a. The religious, political, or ideological viewpoints
26 expressed by the club.

27 b. The religious, political, or ideological viewpoints
28 expressed by students who are members of the club.

29 c. Any requirement that the leaders or members of the club
30 affirm or adhere to any particular beliefs, comply with the
31 club's standards of conduct, or further the club's mission or
32 purpose, as defined by the club.

33 4. Each school district shall do all of the following:

34 a. Annually notify each employee of the school district of
35 the availability of the United States department of education's

1 guidance related to constitutionally protected prayer and
2 religious expression in public elementary and secondary schools.

3 b. Offer professional development opportunities to each
4 employee of the school district regarding constitutionally
5 protected prayer and religious expression in public elementary
6 and secondary schools to ensure understanding and compliance.

7 c. (1) Adopt a policy that ensures the school district
8 complies with federal religious expression standards.

9 (2) Annually certify to the department of education that the
10 school district is in compliance with the policy described in
11 subparagraph (1).

12 5. a. Any individual or club organized by a student alleging
13 a violation of subsection 1, 2, 3, or 4 by a school district may
14 bring a civil action for declaratory relief, injunctive relief,
15 monetary damages, reasonable attorney fees, court costs, and any
16 other appropriate relief against the school district.

17 b. A court shall assess a civil penalty of not less than
18 five thousand dollars against a school district that fails to
19 comply with subsection 1, 2, 3, or 4, in addition to any monetary
20 damages awarded pursuant to paragraph "a". The civil penalty
21 is payable to the prevailing individual or club organized by a
22 student.

23 c. Any individual or club organized by a student aggrieved
24 by a school district's violation of subsection 1, 2, 3, or
25 4 may assert such violation as a defense or counterclaim in
26 any disciplinary action, civil proceeding, or administrative
27 proceeding that is brought against the individual or club.

28 d. This subsection shall not be construed to limit any other
29 remedies available to any individual or club organized by a
30 student alleging a violation of subsection 1, 2, 3, or 4 by a
31 school district.

32 e. A civil action brought under this subsection is barred
33 unless the action is commenced not later than two years after
34 the day the cause of action accrues. For purposes of calculating
35 this limitations period, each day that the violation persists,

1 including each day that a policy in violation of subsection 4,
2 paragraph "c", remains in effect, shall constitute a new day that
3 the cause of action has accrued.

4 6. a. This section constitutes a waiver of any sovereign
5 immunity provided to school districts under the eleventh
6 amendment to the Constitution of the United States.

7 b. A school district that violates subsection 1, 2, 3, or
8 4 is not immune from suit or liability for such violation and
9 consents to suit in federal court for any actions arising under
10 this section.

11 7. This section shall not be construed to prevent a school
12 district from prohibiting, limiting, or restricting any of the
13 following:

14 a. Expression that is not protected under the first amendment
15 to the Constitution of the United States, including true threats,
16 obscenity, and expression that is directed to provoke imminent
17 lawless actions and likely to produce such actions.

18 b. Expression that is unwelcome, and so severe, pervasive,
19 and subjectively and objectively offensive, that the expression
20 effectively denies a student access to educational opportunities
21 or benefits provided by the school district.

22 c. Conduct that intentionally, materially, and substantially
23 disrupts any of the following:

24 (1) The operations of the school district.

25 (2) The expressive activity of another individual if that
26 activity is occurring on school district property in an area
27 reserved for that activity under the exclusive use or control of
28 a particular student, group of students, or a club organized by a
29 student.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill relates to education, including by modifying
34 provisions related to the protected speech and expression rights
35 of students enrolled in school districts, charter schools,

1 and innovation zone schools (schools) and the duties of the
2 department of education (DE).

3 The bill prohibits schools from discriminating against or
4 penalizing a student for engaging in religious, political, or
5 ideological speech, or expressing a religious, political, or
6 ideological viewpoint, in the same time, place, and manner, and
7 to the same extent, that other similarly situated students are
8 authorized to engage in speech or express views at school.

9 The bill requires schools to allow students to express a
10 religious, political, or ideological viewpoint on the topic or
11 subject of discussion or study during class; express religious,
12 political, or ideological viewpoints in school work without being
13 discriminated against or the imposition of an academic penalty
14 based on the content of the student's expressions; organize
15 religious, political, or ideological gatherings or clubs; and
16 wear clothing, accessories, and jewelry that display religious,
17 political, or ideological messages or symbols in the same manner,
18 and to the same extent, as the school permits other students.

19 The bill prohibits schools from discriminating against a club
20 organized by a student because of the religious, political, or
21 ideological viewpoints expressed by the club; the religious,
22 political, or ideological viewpoints expressed by students who
23 are members of the club; or any requirement that the leaders or
24 members of the club affirm or adhere to any particular beliefs,
25 comply with the club's standards of conduct, or further the
26 club's mission or purpose.

27 The bill requires the director of DE to annually distribute
28 the most recent version of the United States department of
29 education's guidance related to constitutionally protected prayer
30 and religious expression in public elementary and secondary
31 schools to members of the boards of directors of school
32 districts, members of the governing boards of charter schools,
33 superintendents employed by school districts, principals employed
34 by school districts, charter schools, or innovation zone schools,
35 and teachers employed by school districts, charter schools, or

1 innovation zone schools. The director is also required to
2 publish on DE's internet site a link to the most recent version
3 of the guidance. In addition, the director is required to
4 develop and distribute to schools a professional development
5 training program regarding constitutionally protected prayer
6 and religious expression in schools. Schools are required to
7 annually notify each employee of the guidance, and to offer
8 professional development opportunities to each employee regarding
9 constitutionally protected prayer and religious expression in
10 schools. Schools are also required to adopt a policy that
11 ensures the school complies with federal religious expression
12 standards and annually certify to DE that the school is in
13 compliance with such policy. The director of DE is required to
14 develop and distribute to schools a model policy that, if adopted
15 by the school, would satisfy the school's responsibilities
16 relating to the adoption of policies that ensure compliance with
17 federal religious expression standards.

18 The bill authorizes any individual or club organized by a
19 student alleging a violation of the bill's provisions by a
20 school to bring a civil action for declaratory relief, injunctive
21 relief, monetary damages, reasonable attorney fees, court costs,
22 and any other appropriate relief. A court is required to assess
23 a civil penalty of not less than \$5,000 against a school that
24 fails to comply with the bill's provisions. The civil penalty
25 is payable to the prevailing individual or club organized by a
26 student. The bill authorizes an individual or club organized
27 by a student aggrieved by a school's violation of the bill's
28 provisions to assert such violation as a defense or counterclaim
29 in any disciplinary action, civil proceeding, or administrative
30 proceeding that is brought against the individual or club. The
31 bill provides that a civil action brought under this subsection
32 is barred unless the action is commenced not later than two years
33 after the day the cause of action accrues.

34 The bill constitutes a waiver of any sovereign immunity
35 provided to schools under the Constitution of the United States.

1 A school that violates the bill's provisions is not immune
2 from suit or liability for such violation and consents to
3 suit in federal court for any actions arising under the bill's
4 provisions.

5 The bill is not to be construed to prevent a school from
6 prohibiting, limiting, or restricting expression that is not
7 protected under the Constitution of the United States; expression
8 that is unwelcome and that denies a student access to educational
9 opportunities or benefits provided by the school; or conduct that
10 disrupts school operations or the expressive activity of another
11 individual if that activity is occurring on school property in
12 an area reserved for that activity under the exclusive use or
13 control of a particular student, group of students, or a club
14 organized by a student.