HOUSE FILE 744
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 237)

(As Amended and Passed by the House March 16, 2021)
ALL New Language by the House

A BILL FOR

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. **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.