



AMERICAN ATHEISTS

March 14, 2018

The Honorable Rep. Walt Rogers
Chairperson, House Education Committee
1007 East Grand Ave.
Des Moines, Iowa 50319

Re: OPPOSITION for SF 2344, Testimony from American Atheists in opposition to the so-called “Campus Free Speech Act”

Dear Chairperson Rogers and Members of the House Education Committee:

American Atheists, on behalf of its more than 500 constituents in Iowa, writes in opposition to Sf 2344, a controversial bill which would undermine the ability of public colleges and universities to provide an open and inclusive campus and to prohibit discriminatory conduct. Although we believe this bill is well-intentioned to promote free speech on college and university campuses, as written the bill would instead allow for invidious discrimination on the basis of religion. We urge you to table this bill or, at a minimum, to amend the legislation to remove its discriminatory elements.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America. As advocates for religious liberty, American Atheists believes that no young person should be denied educational opportunities based on their religious beliefs.

The majority of public colleges and universities within the US have rules in place which require student organizations to comply with the institution’s nondiscrimination policy, which generally prohibits discrimination based on race, sex, disability, sexual orientation, religion, and other categories. The US Supreme Court has endorsed this practice as constitutional and in alignment with First Amendment principles of freedom of speech and of assembly.¹ These policies are important because they create an open atmosphere on campuses and foster freedom of speech by prohibiting discrimination and allowing every student to participate fully in student organizations. On the other hand, if student organizations are allowed to discriminate, it limits the ability of disfavored students (whether due to their religion, sex, sexual orientation, or race) from fully participating in campus life.

Unfortunately, this bill would undermine these critical student nondiscrimination protections. Section 3 of this bill provides, in part, that:

¹ *Christian Legal Society v. Martinez*, 561 U.S. 661 (2010).

[A] public institution of higher education shall not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization affirm or agree to the student organization's beliefs or standards of conduct or further the student organization's mission.²

This language would prevent a college or university from enforcing its policies to prevent discrimination, thereby allowing student organizations to exclude students, impose dangerous or discriminatory rules on students, or sanction harassment. Based on this language, for example a "College Nazi Club" could exclude Black and Jewish students, a "College Christian Club" could exclude Atheists, LGBTQ students, or even Catholics, and a "Future Lawmakers Club" could exclude Republicans. And they could do so while receiving monies and resources provided by taxpayers and by other students at the institution. Although the language appears to apply only to leaders, the effect would be much broader to allow discrimination against any interested student. For example, a student organization could designate every role as a leader or establish a code of conduct that imposes rules to exclude students based on their identities.

Colleges and universities know their students and their individual cultures better than lawmakers – the state should not apply a one-size-fits-all policy on institutions of higher learning. Instead, colleges and universities and the students that attend them should be free to set appropriate nondiscrimination rules for their campuses. Moreover, this provision would also make Iowa public institutions of higher education less competitive with those of other states and private institutions, as students are much less likely to attend institutions where they could face discrimination, harassment, or exclusion. Finally, taxpayers and other students should not be forced to pay for student groups which are discriminatory and exclusionary.

We urge you to table this unnecessary and controversial measure, or, at a minimum, to remove the discriminatory language from Section 3 of the bill. If you should have any questions regarding American Atheists' opposition to SF 2344, please contact me at 908.276.7300 x9 or by email at agill@atheists.org.

Sincerely,



Alison Gill, Esq.
Legal and Policy Director
American Atheists

cc: All members of the Iowa House Education Committee

² Iowa SF 2344, Section 3(3) (2018).