

**House File 744 - Reprinted**

HOUSE FILE 744  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 237)

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

**A BILL FOR**

1 An Act providing for training, prohibitions, and requirements  
2 relating to first amendment rights at school districts and  
3 public institutions of higher education.

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. The state board of regents shall develop materials,  
6 programs, and procedures to ensure that those persons who are  
7 responsible for discipline, instruction, or administration  
8 of the campus community, or who have oversight of student  
9 government organizations, or distribute activity fee funds,  
10 including but not limited to presidents, vice-presidents,  
11 deans, department directors, administrators, campus police  
12 officers, residence life officials, faculty, and members of  
13 student government organizations, understand the policies,  
14 regulations, and duties of the institution regarding free  
15 expression on campus 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 training on free speech under the first amendment to the  
7 Constitution of the United States to all students, faculty, and  
8 staff on an annual basis, which elected officials and staff  
9 shall be permitted to attend.

10    Sec. 3. NEW SECTION.   **279.73 Intellectual freedom —**  
11 **protection — complaints.**

12    1. The board of directors of each school district shall  
13 protect the intellectual freedom of the school district's  
14 students and practitioners and shall establish and publicize  
15 policies that protect students and faculty from discrimination  
16 based on speech. A person shall not retaliate against a person  
17 who files a complaint for a violation of this section. If the  
18 person who files a complaint for a violation of this section is  
19 an employee of the school district, the provisions of section  
20 70A.29 shall apply.

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