



August 14, 2013

Hon. Stephen Bloom
413 Irvis Office Building
PO Box 202199
Harrisburg, PA 17120-2199

Dear Representative Bloom:

As Pennsylvania citizens dedicated to upholding the separation of church and state, we urge you to reconsider your proposed bill that would amend Public School Code of 1949 to create an “Academic Freedom” provision. Though this bill claims to protect teachers, in reality, it seeks to open up public schools’ scientific curriculum to include discussions of non-curricular and non-scientific theories. This bill would not only fail to protect teachers by leaving them in a difficult predicament of drawing the line between acceptable and unacceptable classroom speech, but it would also fail to provide students in Pennsylvania with the highest possible education standards. Moreover, this bill would open the door to constitutional challenges. Accordingly, we urge you to reconsider introduction of this bill.

This Bill Is Unnecessary

This bill claims to “protect teaching of scientific information” through “helping students understand, analyze, critique and review in an objective manner the scientific strengths and weaknesses of existing scientific theories covered in the course being taught.” Yet, there is no evidence that teachers are currently failing to teach methods of critical thinking. In fact, the state’s published *Academic Standards for Science and Technology* details specific guidelines for science teachers, including that teachers must teach students to “[c]ompare and contrast scientific theories and beliefs” as well as to “[c]ritically evaluate the status of existing theories (e.g., . . . theory of evolution . . .).”¹ Further belaboring the point that teachers must teach critical thinking in the classroom is unnecessary.

Moreover, this Academic Freedom provision is also problematic. For example, the memo seeking cosponsors for this bill states that the bill is “modeled on legislation recently enacted in other states.” Similar bills based on Academic Freedom model legislation² have indeed passed in Louisiana and Tennessee; but these bills have been killed in legislatures in Alabama, Colorado, Florida, Indiana, Kentucky, Maryland, Michigan, Missouri, Montana, New Mexico, Oklahoma, South Carolina, and Texas.³ Not only have

¹ Academic Standards for Science and Technology, PA. CODE 22 § 4, app. B (2002).

² *Model Academic Freedom Statute to Evolution*, DISCOVERY INST. (2007)
<http://www.academicfreedompetition.com/freedom.php>.

³ Chronology of “Academic Freedom” Bills, NAT’L CTR. FOR SCI. EDUC., (Feb. 7, 2013)
<http://ncse.com/creationism/general/chronology-academic-freedom-bills>.

Academic Freedom bills' failures far outweighed their successes, but also, when this legislation has passed in a state legislature, it has been highly controversial.

Since Louisiana's Academic Freedom Bill, the Louisiana Science Education Act, was passed in 2008, it has been heavily criticized for allowing teachers to teach creationism in the classroom, and has been subject to numerous repeal efforts.⁴ Similarly in Tennessee, the Academic Freedom bill was vocally opposed by the ACLU⁵ and members of the scientific community.⁶ Even though the law was eventually enacted, it was without the Governor's signature. In fact, Governor Haslam claimed that the bill failed to "bring clarity and not confusion" to the public schools and that it does not "accomplish[] anything that isn't already acceptable in our schools."⁷

This Bill's Effect Is Unconstitutional

This bill states that it shall not "be construed to promote any religious or nonreligious doctrine . . ." Yet, it is likely the effect of this bill would be teaching creationism in the public school science classroom. Merely omitting the words "creationism" and "intelligent design" does not protect this bill from its religious motivation. Indeed, the legislation upon which this bill is modeled can be found on the Discovery Institute's website directly adjacent to a list of "Resources" linking to the website entitled IntelligentDesign.org.⁸ If the model language for this bill is based on intelligent design principles, then it is clear that this bill is merely another attempt to make "intelligent design," or creationism⁹—a theory with no scientific basis¹⁰—part of Pennsylvania's public school science curriculum.¹¹ In *Kitzmiller v. Dover Area School District*,¹² a district court judge in Pennsylvania held that teaching "intelligent design" was unconstitutional under both the Pennsylvania Constitution and the First Amendment. *Kitzmiller* reasoned

⁴ See John Farrell, *Creeping Creationism in Louisiana Public Schools?*, FORBES BLOG, (Nov. 10, 2010) available at <http://blogs.forbes.com/johnfarrell/2010/11/19/creeping-creationism-in-louisiana-public-schools/>.

⁵ *ACLU-TN Urges Governor to Veto Anti-Evolution Legislation*, ACLU, <http://www.aclu-tn.org/release040312.html> (Apr. 3, 2012).

⁶ The bill was publicly denounced by the National Center for Science Education, the American Association for the Advancement of Science, and the National Association of Biology Teachers. Helen Thompson, *Tennessee "Monkey Bill" Becomes Law*, NATURE (Apr. 11, 2012), available at <http://www.nature.com/news/tennessee-monkey-bill-becomes-law-1.10423>.

⁷ Mackenzie Weinger, *Creationism Bill Becomes Tenn. Law*, POLITICO (Apr. 11, 2012), available at <http://www.politico.com/news/stories/0412/75014.html>.

⁸ *Model Academic Freedom Statue to Evolution*, DISCOVERY INST. (2007) <http://www.academicfreedompetition.com/freedom.php>.

⁹ "Intelligent design" was unequivocally declared both unscientific and religious in *Kitzmiller v. Dover Area School District*, 400 F. Supp. 2d 707 (M.D. Pa. 2005).

¹⁰ See, e.g., *Science and Creationism: A View from the National Academy of Sciences* 28 (1999) ("The occurrence of evolution . . . is a fact. Scientists no longer question whether descent with modification occurred because the evidence supporting the idea is so strong. . . . The scientific consensus around evolution is overwhelming. Those opposed to the teaching of evolution sometimes use quotations from prominent scientists out of context to claim that scientists do not support evolution. However, examination of the quotations reveals that the scientists are actually disputing some aspect of *how* evolution occurs, not *whether* evolution occurred.").

¹¹ After the Act became law, state education officials drafted an interpretation of the policy explicitly prohibiting teachers from teaching intelligent design. But after pressure from conservative religious advocates, the same officials unanimously approved a version of the policy that excluded the prohibition. See Yudhijit Bhattacharjee, *Louisiana Creates: New Pro-Intelligent Design Rules for Teachers*, SCIENCE MAGAZINE (Jan. 15, 2009) available at <http://news.sciencemag.org/scienceinsider/2009/01/louisiana-creat.html>.

¹² *Kitzmiller*, 400 F. Supp. 2d at 764.

that teaching intelligent design was unconstitutional because it constituted a “strong official endorsement of religion” by the school system.¹³ Therefore, creating a bill that would enact the same policy as that which has already been overturned by the federal court system is both redundant and careless.

This Bill Fails to Provide Constitutional Safeguards

This bill claims to insulate teachers and administrators from legal action for teaching the debate of controversial scientific theories. Yet, the bill fails to provide specific guidance to about the requirements of curtailing certain constitutionally prohibited student religious expression. For example, even if a student’s work satisfies the confines of the assignment, there is a constitutionally significant difference between one student making a persuasive speech about his or her views on global warming and another student making a persuasive speech stating that all students must accept Jesus Christ in order to achieve salvation. The bill’s provisions would provide little guidance to teachers in such a situation.

Furthermore, this type of legislation is especially harmful to elementary school students, who in particular have difficulty distinguishing “the line between school-endorsed speech and merely allowable speech” because they are so “young” and “impressionable.”¹⁴ Whereas high school students have a greater understanding of the diversity of religious beliefs, this bill as applied to elementary school children, would be tantamount to school-sponsored religion. By failing to clarify differences among elementary and secondary students, this bill is harmful to students’ education, while creating a stronger message of school sponsorship of religion.

This Bill Would Harm Students

This bill is misleading because it frames evolution as a “controversial” theory, rather than what it really is: a well-established scientific fact. This bill would not foster academic discourse, but instead would supplant established scientific principles with religious doctrine. Moreover, students’ ability to receive high quality education is incumbent on the public school system.¹⁵ And, the need for quality science education has never been more prominent. Future careers in the STEM (science, technology, engineering, and mathematics) career fields are poised to expand, given their necessity in today’s global economy, and the state must provide education in those subjects if its students are to succeed in this emerging market.¹⁶ To lower the standards of science education by allowing the teaching of non-scientific theories would be a disservice to the students in the public school system.

Conclusion

¹³ *Id.* at 718.

¹⁴ *Walz v. Egg Harbor Twp. Bd. of Educ.*, 342 F.3d 271, 277 (3d Cir. 2003).

¹⁵ PA. CONST. art. III §14 “The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.”

¹⁶ NAT’L ACAD. OF SCI.S, NAT’L ACAD. OF ENG’G, INST. OF MED., *RISE ABOVE THE GATHERING STORM* 1, (2013).

Public schools serve a critical role in students' lives by preparing them for careers and further education. Science education is essential to a fundamental education. Any threat to the public schools' system of core curriculum is damaging to the future of Pennsylvania's students. Moreover, creating avenues for religious instruction in the public school system endangers students' and teachers' religious freedom. Finally, pursuing legislation that has been held unconstitutional flies in the face of our Constitution and our justice system.

For all the reasons enumerated above, we urge to you reconsider this Academic Freedom bill.

Thank you for your consideration of this important matter.

Sincerely,

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