

# House File 802 and Diversity Courses at Iowa State

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## Conclusions:

1. House File 802 does not materially restrict academic courses at Iowa State dealing with diversity.
2. Even if it did, the proposal from the Senate Working Group on the proposed revision to the ISU diversity course requirement would not violate the terms of HF 802.

## Discussion of Conclusion 1:

When does House File 802 apply or not apply to a state university? HF 802 creates a new Section 7 of Chapter 261H. The core language from Subsection 2 of 261H.7 reads:<sup>1</sup>

“...a public institution of higher education shall ensure that any mandatory staff or student training ... does not teach, advocate, act upon, or promote specific defined concepts.”<sup>2</sup>

Thus, HF 802 applies to state universities only when all of the following are met:

- The university offers “training.”
- The training is “mandatory.”
- The training sessions “teach, advocate, act upon, or promote” certain ideas.
- The ideas promoted are those on a “specific” list of SDCs.

HF 802 also includes explicit language as to when it does *not* apply. Subsection 4 of 261H.7 states that it “shall not be construed to do any of the following” [my emphasis]:

- “(c) Prohibit discussing specific defined concepts as part of a larger course of academic instruction.”
- “(f) Prohibit the use of curriculum that teaches the topics of sexism, slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, segregation, and discrimination.”

As the above passages indicate, HF 802 makes a significant distinction between “training” versus “curriculum” and “academic instruction.” The first is specifically limited by the bill while the latter are explicitly excluded from its scope. Iowa State is a university, not a training school. If “training” and “academic instruction” were understood to mean the same thing, then

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<sup>1</sup> Only Section 2 of HF 802 affects the state universities and community colleges. This language is inserted as the new Section 7 of Chapter 261H of the Code of Iowa. Further references here to HF 802 will cite the numbered subsections of 261H.7.

<sup>2</sup> “Specific defined concepts” henceforth are referred to as “SDCs.”

Subsection 4(c) in HF 802 would directly contradict Subsection 2. Subsection 2 explicitly prohibits the teaching of SDCs while Subsection 4(c) explicitly permits it!

The term “training” refers to the transfer of specific knowledge of rules, procedures, and policies. Examples would include training campus police officers on responding to dormitory disruptions and training admissions and financial aid staff on the procedures for handling applications. Such training is focused on developing the knowledge and functional skills university staff need to perform their employment duties.

Academic instruction has a wholly different objective. Its goal is to develop a broad understanding of a subject matter area. Academic instruction seeks to enable a student to form his or her own perspective on the subject matter and to develop the ability to critique the course material.

The phrase “mandatory staff and student training” in Subsection 2 indicates that the intended audience of the training is not the same as that of the university curriculum. Staff need to be trained for their jobs. As staff, they are not the audience for academic instruction. Students who take work-study or other part-time university employment need similar training for their jobs.

The inclusion of “student training” in that phrase also includes the training of student government officers. On this point, the bill’s history is instructive. Senate File 478 was a precursor to HF 802. The intent of SF 478 was derived from the incident at UNI a year ago when student government leaders denied recognition to a certain student group. SF 478 required public universities to provide relevant training materials to university personnel “including but not limited to administrators, campus police officers, residence life officials, faculty, and members of student government organizations, [so that they might] understand the policies, regulations, and duties of the institution.”<sup>3</sup>

Both the meaning of “training” and the limited intended student audience are further indicated by Section 2 of SF 478:

**“Training — first amendment to the Constitution of the United States.**

Each public institution of higher education shall provide to each member of the institution’s student government organization instruction and training on the first amendment to the Constitution of the United States, including descriptions of what is or is not protected under the amendment.”

The goal of Section 2 is clearly not to initiate a general discussion of the philosophy of the First Amendment; rather it is to train student government officers on the powers and duties of their offices. Its audience is not the general student body but rather a specific group of students with specific duties.

It should be noted that the phrase “teach, advocate, act upon, or promote” has a narrow application in the context of Subsection 2. The SDCs are mislabeled. They are not concepts but rather conclusions. For example, the first SDC concludes “[t]hat one race or sex is inherently superior to another race or sex.” The sixth on the list concludes “[t]hat an individual's moral character is necessarily determined by the individual's race or sex.” When conveying such conclusions, “teach” means the same as “advocate” and “promote.” This is consistent with the meaning of a “training” session. True academic instruction, on the other hand, stimulates

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<sup>3</sup> See Section 1 of SF 478, numbered paragraph 2.

thought, discussion, analysis, and criticism. The force-feeding of canned conclusions is the antithesis of academic instruction.

Finally, the distinction between academic instruction and mere training is sharply illustrated by comparing Section 2 of HF 802, dealing with higher education, with Section 3 of HF 802, which deals with K-12 schools. Section 3 amends Chapter 279 by creating a new Section 74. Subsection 2 of that section is the parallel of Subsection 2 of 261H.7, but its wording is different in a crucial way. The K-12 language dictates that

“the superintendent of each school district shall ensure that any curriculum or mandatory staff or student training” comply with HF802.[my emphasis]

The K-12 language in Section 3 of HF 802 explicitly includes curriculum while the higher education language of Section 2 does not! Had it been the legislative intent for university curriculum also to be restricted, the Legislature would have included the word “curriculum” in the higher education section, too. That the Legislature did not do so further emphasizes the distinction between “training” and academic “curriculum” and further indicates that HF 802 does not apply to academic coursework at the public universities.

### **Discussion of Conclusion 2:**

The diversity requirement at ISU has to do with academic coursework, not with staff training. HF 802 thus does not apply to this requirement, whether or not it is mandatory. Subsections 4(c) and 4(f) of 261H.7 in the bill explicitly exclude academic courses from coverage under HF 802.

Moreover, even if coursework were covered by HF 802—which it is not—the revision to the diversity requirement as proposed by the Senate Working Group (SWG) would not be in conflict with the provisions of Section 2 of the bill. As I illustrated above, the SDCs are not so much concepts as conclusions, and the bill prohibits one to “teach, advocate, act upon, or promote” such conclusions in mandatory training sessions. Even if one were to confuse training with academic coursework, the “learning objectives” proposed by the SWG certainly do not mandate that diversity courses “advocate” or “promote” any conclusions, SDCs or otherwise. Their proposed objectives instead are as follows:<sup>4</sup>

- Students will identify the experiences of underrepresented or marginalized groups and how they have shaped the history and culture of the United States. Categories of analysis include race, ethnicity, gender, sexual identity, religion, or class.
- Students will understand the analytical concepts of diversity, culture, ethnicity, and race and be able to apply these concepts to an analysis of the United States.
- Students will analyze systemic/institutional racism and personal prejudice and their impact on marginalized communities and the broader U.S. society.
- Students will evaluate important aspects of diversity so they can live, work, and collaborate with others in the 21st century United States.

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<sup>4</sup> Source: “A Twenty-First Century Diversity Requirement: Report from the Senate Working Group on the U.S. Diversity Requirement and Class Learning Objectives,” Spring 2020.

Thus the SWG's learning objectives are to develop student thought processes like identifying experiences, understanding and applying concepts, analyzing impacts, and evaluating aspects—not dictating conclusions. In both committee and floor debate on HF 802 in the Iowa Senate, the bill's advocates repeatedly stated that they didn't want certain conclusions presented as fact. The SWG proposal is far from doing so. Their goals are to equip students to analyze diversity issues in order to formulate their own conclusions.