



HB 1356 – Relating to a youth patriotic society’s access to students during school hours.

January 27, 2021

Chairman Owens and members of the House Education Committee. Thank you for the opportunity to testify on this HB 1356. I am Dr. Russ Ziegler, assistant director for the North Dakota Council of Educational Leaders. I am here today to testify in opposition to HB 1356.

Educational Leaders believe that the decision of who can come to the school and speak to student should be up to the school and should be governed by local school board policy. HB 1356 takes that ability away from the principal, superintendent, and school board. We feel that HB 1356 is well intended in that it would allow students to hear from Patriotic Societies, but we feel that the language of the bill could ultimately have a negative effect on the school, and students by potentially putting a school into a forced decision that would put them in direct violation of the Equal Access Act. We are consistently advised that if we let one organization in then we have to let any in. The **Equal Access** Act is a United States federal law passed in 1984 to compel federally funded secondary schools to provide **equal access** to extracurricular student clubs. I’ve attached a copy of the US Department of Education guidelines. In those guidelines it is very clear:

- All schools who receive any sort of federal funds – we fall under the provisions.
- If a school allows at least one non-curriculum related student group to meet on school premises during non-instructional time, it must allow that same access to any other similarly situated group.
- Access refers not only to physical meeting spaces, but also recognition and privileges afforded to other groups including – the right to announce club meetings over the public-address system, in the school paper – or in the case of this bill *during regular school hours*.
- *Note: definition of non-instructional is “time set aside by the school before actual classroom instruction begins or after actual instruction ends” by this definition, the time allowed for patriotic societies becomes non-instructional time.*

A part of the role of a school is to protect instructional time. Schools have locally established policies about groups coming in outside of instructional time and offer equal access rights to such groups on the basis of their local policy. Allowing this in-road into the regular school day and ultimately instructional time has the potential to erode the overall instructional obligation of the district.

This bill would require a school to allow an individual to come and present and recruit students during school hours. The bill specifically states “Patriotic Societies” but it is our concern that if you HAVE to allow for these organizations then the school would also HAVE to allow for other



34 organizations, and some may not be what the community and parents want. I have attached a
35 sheet from Cornell Law School that lists the organizations that are listed under title 36, United
36 States Code, subtitle II, part b. There are 89 organizations that are under Patriotic Societies –
37 everything from the Boy Scouts to the National Film Preservation Foundation. I do know that the
38 intent of the bill is for Boy Scouts and Girl Scouts, but the Equal Access Act does not allow for
39 the picking and choosing of organizations. This bill would require a school to let any of those
40 organization present and recruit the students at the school.

41 This bill also does not state if a student **must attend** the presentation and recruitment. What
42 about students whose religious or cultural beliefs do not coincide with these organizations? Are
43 they forced to attend? According to the bill they would be. The bill also does not specify if
44 parents need to be notified, which raises the question as to whether parents should have the
45 ultimate say as to who could be recruiting their child and for what reasons.

46 Schools have a lot to do in the limited amount of time they are with the students. It is the belief
47 of our school leaders that the school needs to have the ability to decide what is presented and
48 how to the students.

49 Because of this we respectfully request a Do Not Pass on HB 1356.