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Pro-Family Alliance and the families it represents believe that all persons, including students and teachers, should be treated with honor, dignity, and respect, which means that the truth must be spoken in love. Racism should be condemned, and the value of cultural and ethnic diversity affirmed as central elements in effective teaching. These beliefs find their source in the conviction that each person is made in God’s Image, and therefore that each person is invaluable and deserving of a high level of care and respect.

While, in some areas, the proposed rule (Section 24.50) articulates values congruent with Alliance values, by and large these congruent values are already contained in the existing Illinois Professional Teaching Standards (Section 24.130). Under these standards, which include “Teaching Diverse Students” (Section 24.130(a)), teachers must take into account the diversity in students’ families and communities and try to find effective ways to motivate their diverse students toward achievement of their educational goals.

However, Pro-Family Alliance, after conferring with its legal counsel, has the following objections:
I. The Proposed Rule Is Unconstitutionally Vague.

The proposed standards (Section 24.50) add a layer of expectations to the current competency standards (Section 24.130), but unlike those standards, which are couched in terms of “Knowledge Indicators” and “Performance Indicators”, the proposed standards largely articulate expectancies in vague and undefined terms which do not permit an objective assessment of teacher compliance.

A statute (or, in this case, a rule) which fails to give a person of ordinary intelligence a reasonable opportunity to know what is prohibited or required so that he or she may act accordingly violates due process and is void. See In re R.C., 195 Ill.2d 291, 298 (2001), “[A] legislative act which is so vague, indefinite and uncertain that the courts are unable, by accepted rules of construction, to determine with any reasonable degree of certainty what the legislature intended will be declared to be void.” R.W. Dunteman Co. v. C/G Enterprises, Inc., 181 Ill.2d 153, 163 (1998). As the Supreme Court explained in Grayned v. Rockford, 408 U.S. 104, 108-109 (1972) (footnotes omitted):

Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute "abut[s] upon sensitive areas of basic First Amendment freedoms," it "operates to inhibit the exercise of [those] freedoms." Uncertain meanings inevitably lead citizens to "steer far wider of the unlawful zone' . . . than if the boundaries of the forbidden areas were clearly marked."

The proposed rule here is unlawfully vague because it fails to include any definitions or objectively measurable standards to assess teacher competency with respect to the covered subjects. Instead, it sets forth subjective aspirational statements such as, “The culturally responsive teacher and leader will: *** “[understand and value the notion that multiple lived experiences exist, that there is not one ‘correct’ way of doing or understanding something, and that what is seen as ‘correct’ is most often based on our lived experiences”[;] *** [e]ngage in self-reflection about their own actions and interactions and what ideas motivated those actions[; and] *** [e]xplore their own intersecting identities, how they were developed, and how they impact daily experience of the world.” Section 24.50(a)(1), (5), (6).

II. The Proposed Rule Unconstitutionally Compels Speech.

Despite its vagueness, the proposed rule does contain an explicit underlying “progressive” ideology and viewpoint, which will be enforced against teachers who think differently on the political and social issues the standards address. This element in the proposed rule also raises constitutional objections relating to compelled free speech and viewpoint discrimination.
The standards explicitly require teachers and students to “co-create content to include a counternarrative to dominant culture.” (Section 24.50(g)(9)). Teachers (described also as “leaders”) are expected to “Create a risk-taking space that promotes student activism and advocacy” and to “hold high expectations” for students to participate and lead as “advocates and activists.” (Section 24.50(e)(5) and (7)). Teachers must “[e]mbrace and encourage progressive viewpoints and perspectives that leverage asset thinking toward traditionally marginalized populations.” (Section 24.50(g)(5)). Teachers must “affirm[ ] students’ [ ] identities”, which include, inter alia, “gender identity, sexual orientation,”; to “critically think about the institutions in which they find themselves, working to reform these institutions whenever and wherever necessary”; and to “[a]ssess how their biases and perceptions affect their teaching practice and how they access tools to mitigate their own behavior (… sexism, homophobia, unearned privilege, Eurocentrism, etc.)”. Section 24.50(a)(2), (7), (9), (10)).

These elements of the proposed rule require teachers to enunciate a government-sourced “progressive” and activist viewpoint in their educational work with students. As a consequence, certain narratives will be required, and counter narratives excluded and proscribed. This is a form of compelled speech and viewpoint discrimination which is likely to be found unconstitutional. As the Supreme Court emphasized in Janus v. AFSCME, Council 31, 138 S.Ct. 2448, 2464 (2018):

Free speech serves many ends. It is essential to our democratic form of government, see, e.g., Garrison v. Louisiana, 379 U.S. 64, 74-75 (1964), and it furthers the search for truth, see, e.g., Thornhill v. Alabama, 310 U.S. 88, 95 (1940). Whenever the Federal Government or a State prevents individuals from saying what they think on important matters or compels them to voice ideas with which they disagree, it undermines these ends.

And the Court has identified viewpoint discrimination as equally pernicious to the body politic: “Government discrimination among viewpoints—or the regulation of speech based on ‘the specific motivating ideology or the opinion or perspective of the speaker’—is a ‘more blatant’ and ‘egregious form of content discrimination.’ Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 829, 115 S. Ct. 2510, 132 L. Ed. 2d 700 (1995).” Reed v. Town of Gilbert, 135 S.Ct. 2218, 2230 (2015).

Since the proposed rule explicitly requires a particular “progressive” approach to teaching and in doing so, it inherently discriminates against contrary viewpoints in violation of the First Amendment.

As yet another example, the proposed rule requires teachers to “[a]pproach their work and students with an asset-based mindset, affirming the students’ backgrounds and identities.” Section 24.50(a)(2). While we agree that every student brings valuable “assets” from their life, background, and experience, the standards are written so broadly as to suggest that a teacher will be required to “affirm” and “legitimize” everything a student brings to class. This is surely a requirement that would force many teachers to violate their consciences. Moreover, this would be true not just for those teachers aligned with traditional beliefs about gender and sexuality. The standards are so broad that a teacher would be required to “affirm” and “legitimize” a student’s white-supremacist background. Of course, the language of Section 24.50.g.5 requiring a teacher
to ([e]mbrace and encourage progressive viewpoints.” would presumably cancel the requirement to affirm a white-supremacist background, but this just highlights how the proposed rule skews education to “progressive” causes while giving what amounts to lip service to affirmance of students’ diverse backgrounds, lived experiences, and identities. The proposed rule should require that teachers embrace each and every student as a unique and valuable human being, as the Pro-Family Alliance affirms, but without asking teachers to affirm and legitimize “identities”, “lived experiences”, and “assets” in violation of their sincerely held convictions.

Despite all of these deficiencies and potential pitfalls to constitutional rights in the proposed rule, it contains no prophylactic guarantee that the free speech rights of teachers will be respected and preserved. This also should be corrected.


The proposed rule, if enacted, requires, as a condition of licensure, that teachers take a definite ideological stance with respect to the political and social issues it addresses. This requirement will create potential conflicts with the deeply held religious convictions of teachers, parents, and students in the State of Illinois. Not all teachers would be able to comply with the new standards without violating their consciences.

The proposed rule does not allow everyone’s ideas to be legitimized; it prefers the interests of certain groups that have been at the forefront of news and media the last several years. Yet, it purports to change fundamentally the way educators are taught how to teach and allows for no opt-out. The proposed rule, if enacted, will disqualify potential teachers who hold religious beliefs or conscience-based convictions contrary to the ideological positions set forth in the rule. This would exclude otherwise excellent teachers from following their desire to participate in the education of the next generation.

As an example, Section 24.50(a)(1) requires teachers to “[u]nderstand and value the notion that multiple lived experiences exist, that there is not one ‘correct’ way of doing or understanding something, and that what is seen as ‘correct’ is most often based on our lived experiences.” But many religious faiths believe in the concept of “objective truth” and would take issue with what appears to be a contradictory position that says, in effect, it is an objective truth that truth does not exist. Further, if there is no “correct” way of doing or understanding something, then arguably education itself is a waste of time since in the final analysis whatever way one lives one’s life is by definition correct for that person. Such a position would be anathema to many persons of faith who believe the correct way of living is guided by a transcendental moral code, not one defined autonomously by each individual. Or persons who believe a distinction should be drawn between possession of immutable characteristics (such as race) and freely chosen behavior.

The standards require teachers to “[a]pproach their work and students with an asset-based mindset, affirming the students' backgrounds and identities.” Section 24.50(a)(2). But a teacher need not “affirm” the students’ backgrounds and identities to effectively teach them. This falls outside of the role of what a teacher can legitimately be expected to do. A teacher can acknowledge a background or even an identity of a student, and take it into consideration in effective pedagogy, without affirming it. To require a teacher to “affirm” a background or
identity is to compel a teacher to speak in such a way that potentially violates his or her religious faith or conscience. The proposed rule need not go so far as to potentially violate a teacher’s conscience or religious belief by requiring such affirmance.

The same objection applies to the requirement that teachers “[i]nclude representative, familiar content in the curriculum to legitimize what students bring to class, while also exposing them to new ideas and worldviews different from their own.” Section 24.50(a)(4). While it is important for teachers to know their students, and to teach in such a way that connects with students educationally, it is not the educator’s obligation to “legitimize” what students bring to class. Like the requirement to affirm “backgrounds and identities”, this requirement will potentially violate the consciences of teachers in the classroom who believe in contrary values, and even the consciences of students who may share a teacher’s conviction.

The proposed rule’s requirement that teachers “Leverag[e] Student Activism” (Section 24.50(c)) is likewise inherently problematic. The “activism” taught pursuant to this section has a selective agenda -- limited to “traditionally marginalized populations” (Section 24.50(g)(5) and selected “identities” (Section 24.50(a)(7)). The agenda will very possibly not be an agenda that the persons of faith (Christian, Jewish, Islamic, and others) could, in good conscience, support. Teachers almost certainly will not be taught how to assist students to advocate on behalf of the unborn at abortion clinics or in a march for life. They will unlikely be taught to instruct their students that true justice begins in the womb. They will be taught activism on behalf of transgender “identities”, but not how to advocate on behalf of traditional marriage. The proposed rule touts “inclusivity”, but it necessarily excludes anyone who’s religious views conflict with the views of those who would support opposite positions.

The U.S. Constitution’s First Amendment guarantees each citizen the right of free exercise of religion. The Illinois Constitution contains a similar guarantee (Article I, Section 3) (“The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions;”). In addition, Illinois’ Religious Freedom Restoration Act (“RFRA”), 775 ILCS 35 et seq., provides protections against infringing State laws. Also, the Illinois Human Rights Act, at 775 ILCS 5/20192(E-5), prohibits “religious discrimination” in the workplace, which makes it a human rights violation:

For any Employer to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement, or transfer, any terms or conditions that would require such person to violate or forgo a sincerely held practice of his or her religion.

Advocating, expressly or implicitly, any position contrary to a tenet of religious belief -- e.g., that homosexual practices are licit, that abortion is licit -- gives scandal, which is sinful in all Christian religions (as well as Islam and Judaism). Such advocacy would "violate[s] ... a sincerely held practice", i.e. to avoid sin. "Employer" includes all branches and agencies of the state, municipalities, counties, agencies and other political subdivisions. 775 ILCS 5/2-101(B)(c). So the Board itself would commit a "civil rights violation" by promulgating the proposed rule as currently written, and any school district would commit a civil rights violation
to the extent that it insists that teachers be required to subscribe to any position contrary to a
teacher's, or applicant's, sincerely held beliefs about what is sinful and licit.

For these reasons, Pro-Family Alliance opposes the proposed rule as a violation of its members’
rights of speech, religion, and conscience.

IV. General Recommendations.

Pro-Family Alliance recommends that the proposed rule be dropped entirely because of its
constitutional infirmities of vagueness, viewpoint discrimination, and interference with free
exercise of religion and conscience.

But at a minimum, Pro-Family Alliance recommends that the proposed rule be redrafted to
address all of these above-stated concerns, including by:

- Defining each of the proposed rule’s terms in order to give clear notice of the
  content of what is intended by the term, and thereby to mitigate the vagueness currently in the
  proposed rule, as well as its attendant potential to be misapplied by those charged with its
  implementation if finalized.

- Modify the proposed rule to use language that does not appear to require teachers
to speak an opinion or message that could violate their consciences. For example, instead of
“affirming”, the standard could require that teachers be “respectful” of students’ backgrounds
and identities. Instead of “legitimize” the standard could require a teacher to “recognize” what
students bring to class.

- The proposed rule should make clear that the “lived experiences” of students
include their religious beliefs and practices. The rule should state that religious beliefs and
practices have as much value as other aspects of lived experience.

- The teaching of “activism” should not be included in the proposed rule. To the
extent a teachers’ time and energy is devoted to activism, to that extent it will mean the teacher
will be prevented from teaching students the skills they truly need for life, which start with the
three “R’s”, reading, writing and arithmetic. Deemphasizing traditional subjects in favor of, e.g.,
“activism” will likely harm students from “educationally disadvantaged communities” the most.
In sum, there is no time or justification for teaching activism as a topic to be included in all areas
of pedagogy.

- First Amendment and conscience concerns should be addressed explicitly in the
proposed rule. Language should be included guaranteeing that: “Nothing in these standards is
intended to infringe upon any rights guaranteed by the United States or Illinois Constitutions or
intended to conflict with federal or Illinois law.”

Thank you for considering these comments.