



House Bill 360: Protecting Discrimination in Texas

Bill Would Require Colleges and Universities to Fund Groups Promoting Racism and Other Discrimination

HB 360 would withhold state funding from a public or private institution of higher education that requires religious and other student organizations to allow students to participate regardless of those students' "beliefs or status, including race, gender, and sexual orientation."

In 2010 the U.S. Supreme Court ruled in *Christian Legal Society Chapter v. Martinez* that public institutions of higher education may require that all officially recognized student organizations open their memberships to all students. The court held that such an "all-comers" policy "is a reasonable, view-point neutral condition on access to the student-organization forum." The First Amendment protects "against state prohibition of the organization's expressive activity, however exclusionary that activity may be," but organizations have no constitutional right to government support of their selectivity, the court's opinion said.¹

Promoting Discrimination

HB 360 could require institutions of higher education in Texas to accept and even provide funding for student chapters of organizations like the Ku Klux Klan and other white-supremacist and anti-Semitic groups that claim their discriminatory practices are based on their religious beliefs.

HB 360 puts protecting biases like racism, sexism, and homophobia ahead of protecting students against discrimination.

Giving Improper Preference to Religion-based Discrimination

HB 360 would give preferential treatment to religious groups to discriminate, allowing them to use religious justifications to bar participation by gay and lesbian students. In her opinion in *Christian Legal Society Chapter v. Martinez*, Supreme Court Justice Ruth Bader Ginsburg wrote that student religious organizations, like all other student groups, have no special constitutional right to government support for their exclusionary practices.

HB 360 would put colleges and universities in Texas in the position of judging the validity of the religious and other beliefs of students in a particular organization.

HB 360 protects hate and discrimination under the guise of religious teaching and extremist ideology.

¹ <http://www.supremecourt.gov/opinions/09pdf/08-1371.pdf>