



To: Members of the Senate Higher Education Committee

RE: Senate Bill 3017, Senate Amendment 1

Date: March 4, 2014

The ACLU of Illinois opposes Senate Bill 3017, legislation that prohibits use of state funds by academic groups at the U of I, UIC, SIU, Chicago State, Eastern Illinois University, Governor's State, ISU, NIU, Northeastern Illinois University, and Western Illinois University that support boycotts against academic institutions or their host countries.

Advocacy of boycotts is a form of ideological expression protected by the First Amendment. Speech and nonviolent picketing in support of a boycott encompasses the practice of people sharing common views banding together to achieve a common end, a practice deeply embedded in the American political process. By this collective effort, individuals can make their views known when, individually, their voices would be faint or lost. In emphasizing the importance of the freedom of association in guaranteeing the right of people to make their voices heard on public issues, the U.S Supreme Court has noted that effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982).

Senate Bill 3017 is a response to an endorsement by the American Studies Association (ASA) of a boycott directed at Israeli academic institutions. The ASA has stated that the boycott is an effort to address infringements of Palestinian students' right to an education under conditions of Israeli occupation, and of infringements of the academic freedom of Palestinian scholars and students in the West Bank, Gaza, and Israel.

Unfortunately, this bill runs counter to democratic principles. It purports to protect academic freedom by penalizing a point of view deemed unacceptable by certain government officials. It gives the state the role of censor in matters of academic controversy. This overbroad effort to punish peaceful protest and advocacy is unconstitutional.

Language in the bill in Section (d) (3) permitting state funds to flow when the boycott is for the purpose of protesting unlawful discriminatory practices, as determined by the laws or administrative rules of Illinois doesn't cure the problem this legislation presents. Certainly, even with this exception, the legislation would permit Illinois to prohibit ideological expression, in the form of an academic boycott that seeks to address economic injustice. Furthermore this exception is problematic because in each instance the unlawfulness of a discriminatory practice that engenders a boycott must be litigated. In other words, there must be a judicial ruling that discrimination is unlawful per SB3017 (d) (3). This means that protected speech will be chilled since a public university will think twice about using state aid to fund an academic entity that may undertake or has undertaken support of a boycott in protest of a discriminatory practice, the unlawful nature of which is unknown until litigated.

We urge this committee to reject this effort to insert our state into a complex international political conflict. This bill is an unconstitutional limit on peaceful support of the boycott, a vehicle by which individuals and groups can make their collective voices heard, intended to effect social, political and economic change.