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SENT VIA EMAIL: Senator.Raatz@iga.in.gov

January 23, 2024

The Hon. Jeff Raatz  
Chair, Sen. Cmte. on Education and Career Development  
Senate Chamber  
200 W Washington St.  
Indianapolis, IN 46204

Re: Testimony in opposition to S.B. 50

Dear Chair Raatz and Committee Members:

I am writing on behalf of the FFRF Action Fund (FFRF AF) to provide testimony in strong opposition to S.B. 50. FFRF AF is an affiliate of the Freedom From Religion Foundation, a national nonprofit organization with more than 40,000 members across the country, including more than 500 members in Indiana. We work to ensure that our laws remain secular in order to protect the constitutional separation between state and church and to represent the views of nonreligious citizens.

S.B. 50 would allow school administrators to “employ, or approve as a volunteer, a school chaplain.” This invites a host of constitutional problems that the bill’s limited safeguards come nowhere near curing.

**First**, most fundamentally school administrators violate their obligation to remain neutral on matters of religion in their official capacity when they select a particular religious minister to employ as a chaplain; facilitate religious counseling between that chosen minister and students or employees, during the school day and on campus; and encourage students or employees to meet with that minister, explicitly or implicitly.

S.B. 50 is particularly weak on this point because it allows every “school principal or superintendent” to hire a chaplain, meaning for example that a Baptist principal could unilaterally hire their Baptist minister as a chaplain, without approval of the school board.

Schools promoting religion in this manner would flagrantly violate both the Establishment Clause of the First Amendment, and Art. I § 4 of the Indiana Constitution, which guarantees that “**No preference shall be given, by law, to any creed, religious society, or mode of worship . . .**” S.B. 50 does not, and cannot, remove this basic constitutional protection. Any administrator who takes up the invitation to hire a chaplain would plunge their school district into a losing lawsuit.

**Second**, S.B. 50 would plunge school districts into a separate constitutional quagmire by inviting public schools to employ school representatives whose role is to provide religious guidance.<sup>1</sup> Just like other employees, or even volunteer coaches, anything said by the chaplain in their official role as a school chaplain would be government speech. This is a major problem because, as explained above, public schools may not take sides on religious matters. The same would be true of school-employed chaplains.

Further, the school’s (or administrator’s) ongoing control over the chaplain’s speech is an additional layer of trouble for schools. A principal who may hire a chaplain may also fire that chaplain, depending on what the chaplain says. That control over religious figures and their speech is a no-win scenario for schools.

**Finally**, S.B. 50 would create tension and strife in communities across the state. Church leaders would pressure school administrators to hire them as chaplains, parents who do not share the religious beliefs of the chosen chaplain would complain, and so on. It is precisely this sort of division that the Establishment Clause, and Art. I § 4 of the Indiana Constitution, were designed to avoid. The Framers understood that the only way to protect true religious liberty was to ensure that the government stays out of religious matters.

The bill’s attempted safeguards are wholly inadequate to address the above concerns. The bill states that chaplains “may only provide secular advice, guidance, and support services to a student or employee of the school unless” the student,

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<sup>1</sup> S.B. 50 limits chaplains to those who have a “master's degree in divinity, theology, religious studies, or a related field,” confirming that this is a specifically religious role.

student's parent, or employee gives "permission allowing nonsecular advice, guidance, and support services." While this is better than allowing chaplains to freely proselytize students and employees, it does nothing to correct the bill's above-described fatal constitutional infirmities. Selecting, paying, or promoting a school-sponsored religious chaplain whose job is to give religious advice is unconstitutional, regardless of whether that religious advice is solicited.

In short, there is no way to save this bill. Our secular public school system provides an environment where students of all religious affiliations, and none, may thrive without worrying that their school officially favors one religion over another, or religion over nonreligion. This bill utterly disregards this principle, inviting school administrators to send a message to their students — many of whom are nonreligious — that they ought to be receiving religious advice from their principal's favored minister. This committee should show its commitment to true religious liberty by rejecting this ill-conceived bill.

Sincerely,



Ryan D. Jayne  
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FFRF Action Fund