



February 20, 2014

Assembly Member
Legislative Office Building
Albany, NY 12248

RE: A.08392A (Silver) – Amended Anti-Boycott Bill

Dear Assembly Member:

We at the Center for Constitutional Rights and the National Lawyers Guild – NYC Chapter are writing to renew our serious concerns with A.8392A, which was amended after an outpouring of opposition from academic and civil society groups objecting to the bill’s restrictions on free speech and academic freedom.¹

A.8392A, like the original bill, bars New York colleges from using state aid to reimburse the expenses of academic organizations on college campuses in an effort to limit constitutionally protected forms of protest on one side of the debate about Israeli government human rights abuses. Such content-based and viewpoint-based restrictions on protected speech are clear violations of the First Amendment. While the revised bill reduces the amount of the penalty that colleges will face if they violate the law,² modifying the amount of State-imposed coercion does not cure the constitutional defect. The Constitution prohibits attempts by the State to pressure individuals and institutions into adopting its viewpoint on matters of public concern regardless of whether the penalty for disagreement with the state is one dollar or one million dollars.

¹ See, e.g., Letter from Center for Constitutional Rights and National Lawyers Guild – New York City Chapter (Jan. 30, 2014) at <http://ccrjustice.org/files/1%2030%2014%20%20CCR%20NLG%20NYC%20Letter%20to%20NY%20Assembly%20Members%20FINAL.pdf> (“CCR Letter”); Letter from New York Civil Liberties Union (Feb. 3, 2014) at <http://coreyrobin.files.wordpress.com/2014/02/academic-boycott-bill-a8392-s6438-nyclu-statement-final.pdf>; Statement from American Association of University Professors (Feb. 4, 2014) at <http://aaup.org/sites/default/files/files/AAUPstatementboycottlegislation.pdf>; Statement from Columbia University Faculty (Feb. 3, 2014) at <http://coreyrobin.files.wordpress.com/2014/02/columbia-faculty-boycott-letter-with-signatures-11.pdf>; Statement from City University of New York faculty and staff union (Feb. 1, 2014) at <http://pscbs.blogspot.com/2014/02/new-york-state-boycott-bill-attacks.html>.

² The amended bill provides that no college in this state shall use direct state aid to fund certain activities (for example, membership fees, travel or lodging) of the members of an academic entity that supports the boycott of an educational institution or a host country chartered by the Board of Regents of the University of the State of New York. See A8392-A, §2.3. The original bill provided that a college in violation of the prohibition would receive no state funds for that academic year. See A8392-§2.3.

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In addition, the revised bill undermines the very academic freedom it disingenuously purports to protect. As the New York Times Editorial Board explained of the original version, in terms equally applicable here:

The New York bill is an ill-considered response to the American Studies Association Resolution and would trample on academic freedoms and chill free speech and dissent. Academics are rightly concerned that it will impose a political test on faculty members seeking university support for research meetings and travel.³

In our January 30, 2014 letter,⁴ we presented in detail the arguments concerning the unconstitutionality of the original version of this bill, which are equally applicable to this version. Those arguments were recently summarized this way by prominent First Amendment lawyer Floyd Abrams: “The notion that the power to fund colleges and their faculties may be transformed into a tool to punish them for engaging in constitutionally protected expression is contrary to any notion of academic freedom and to core First Amendment principles.”⁵ If passed, this bill will invite continued criticism and trigger legal challenges.

Accordingly, we urge you to oppose A.8392A.

Sincerely,



Baher Azmy
Legal Director
Center for Constitutional Rights



Elena L. Cohen
President
National Lawyers Guild-NYC Chapter

³ Editorial, *A Chill on Speech*, N.Y. TIMES (Feb. 3, 2014) at <http://www.nytimes.com/2014/02/04/opinion/a-chill-on-speech.html>.

⁴ CCR Letter, at <http://ccrjustice.org/files/1%2030%2014%20%20CCR%20NLG%20NYC%20Letter%20to%20NY%20Assembly%20Members%20FINAL.pdf>.

⁵ Gray, Rosie, *Major Jewish Groups Won't Back Boycott Bill*, BUZZFEED (Feb. 6, 2014) at <http://www.buzzfeed.com/rosiegray/major-jewish-groups-wont-back-boycott-bill>.