

STM-ART. 1



April 18, 2018

STATEMENT OF JOHN BONIFAZ TO THE AMHERST SELECT BOARD

My name is John Bonifaz. I am a constitutional and voting rights attorney living here in Amherst. I am the founder of the National Voting Rights Institute, which I directed for more than a decade before becoming its general counsel. And, I am the co-founder of Free Speech For People, which I have directed since 2010. I am here tonight to speak about the proposed act for the state legislature in Article 1 of the upcoming Special Town Meeting on April 30.

This proposed act would violate the federal and state constitutional rights of student voters.

With the presence of UMass-Amherst, Amherst College, and Hampshire College, the Town of Amherst is home to thousands of college students who account for close to half of the town's voting age population (based on 2010 Census data). During the course of constitutional litigation against the town in the 1970s around the student voting question, the town, via its Select Board, adopted a policy "to hold municipal elections on dates that afford all registered voters an opportunity to personally participate therein by casting ballots at the polls." (See *Walgren v. Board of Selectmen of the Town of Amherst*, 519 F. 2d 1364 (1st Cir. 1975).)

Article 1 proposes state legislation which would establish an election calendar that includes nomination papers for candidates for the new Town Council to be available on June 1, 2018 and to be returned by August 1, 2018, a time period when the vast majority of students are away for the summer and, thus, unable to participate in this process as voters and as candidates. This exclusion of student voters from the process for nominating candidates for the Town Council would violate their federal constitutional rights under the Equal Protection Clause of the Fourteenth Amendment and under the Twenty-Sixth Amendment. In addition to implicating students' federal constitutional rights to the franchise, the election calendar in this proposed legislation also implicates students' rights under Article 9 of the Massachusetts Constitution, including their rights "to be elected."

The Town of Amherst should not be engaged in excluding nearly half of our voting age population from a critical part of our election process in violation of the US Constitution and the Massachusetts Constitution. The Select Board has a responsibility to help ensure that Amherst not disenfranchise student voters in this way, which could subject the town to unnecessary and costly litigation. The Select Board should not recommend Article 1 to the Special Town Meeting and you should exercise your leadership in urging Town Meeting Members to reject this unconstitutional measure.

The right to vote is the bedrock right of our democracy. We must ensure that this right is protected for all eligible voters in Amherst.