



January 25, 2021

The Senate Education Committee
415 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Open Government Bills before the Senate Education
Committee 1/26/2021

The First Amendment Foundation writes in opposition to Senate Bill 220, which is scheduled to be heard by the Senate Education Committee on Tuesday, January 26, 2021. Senate Bill 220 would exempt all personal identifying information of any applicant for president of a state university or Florida College System Institution.

Already, headhunting firms control the selection process of most university and college leaders. Although [headhunting firms claim](#) that searches open to the public may discourage desirable candidates from applying, there is no evidence to suggest that secrecy results in better, more qualified presidents to lead our state's institutions. To the contrary, secret selections have caused embarrassment at some universities when information regarding unsavory conduct is later revealed.

Headhunting firms have long profited on Florida's higher education system. Over the past five years, public records show that colleges and universities have paid firms between \$90,000 to \$150,000 to find a new president. Some schools, such as Florida State College, UCF, and UNF, also agreed to cover the firms travel and advertising expenses.

Based on agreements between schools and headhunting firms, headhunters are responsible for almost all of the process: from developing a list of candidates, to planning and implementing the school search committee's plan of action and search timeline, and coordinating and implementing all search committee activities. Headhunters oversee marketing, advertising, and recruiting for the position. One firm hired to conduct a search at the University of Florida agreed to "actively recruit and advise on qualifications of individuals to become candidates in light of the University's needs, opportunities, and

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challenges.” Headhunters are tasked with proposing qualifications of potential candidates, rather than members of a school's faculty familiar with campus needs.

While a headhunting firm's search plans or advertisements may be subject to a university's approval, the headhunters have authority to shape the entire search process. Increased secrecy will allow headhunting firms to carry out the entire process in the dark, out of public scrutiny.

It is sometimes argued that fewer people “apply” for presidencies if the search is open to public scrutiny. This is misleading. Those who “apply” by mailing an application in response to an advertisement are, invariably, not taken seriously as candidates; those applications are no more than “junk mail.” The serious candidates are the ones who have agreed to put their resumés and references on file with headhunting firms. The claim that “more people will apply” with the benefit of secrecy is perhaps true, but irrelevant. Those applications are all bound for the trash. Moreover, the type of people who may be deterred from applying under public scrutiny will include exactly the type of people we should *want* to deter – people whose backgrounds cannot hold up to public scrutiny.

If the process takes place behind closed doors, applicants for presidential positions will not be thoroughly vetted by the faculty they will lead. Presidents will lose an opportunity to better understand the needs and culture of an institution – and the reassurance of a fair and open process. Faculty, students, and the public will be in the dark, with no way of knowing if more qualified and/or diverse candidates have applied. They will be barred from meaningfully participating in the discussion of who will lead at their campus.

Senate Bill 220 provides that the final group of applicants must be disclosed to the public at least 21 days before of the date of the final interview. However, there is nothing to prevent headhunting firms from releasing the name of just one candidate as the “final group.” This practice of releasing one finalist has occurred in states that have closed searches. The selection process becomes a *fait accompli*, leaving the campus community with no voice in the decision and no reason to support the choice -- no buy-in whatsoever.

Despite claims by headhunters that increased secrecy will result in better, more diverse candidates, [research from the Brechner Center for Freedom of Information](#) shows the opposite is true. The Brechner Center compared the presidents selected through open searches in Florida and Tennessee to those selected in closed searches in Georgia and found no difference between the quality of applicants. Only two of twenty-four presidents at Georgia schools came from leading research institutions that are members of the Association of American Universities, compared to one of twelve of Florida presidents. Moreover, Georgia's closed searches led to the promotion of insider candidates (who would have no reason to fear retaliation) or

administrators from other Georgia institutions. In a follow-up study, the Brechner Center found that there was no truth to the oft-repeated claim of headhunting firms that people who allow their candidacies to be considered publicly will suffer professional harm. In fact, a review of 242 hiring decisions found that the vast majority of people known to have been rejected from consideration for a university presidency went on to secure another presidency or comparably high-ranking position.

This bill sounds a dissonant note at a time when all higher educational institutions are grappling with their lack of diversity in executive leadership. If the choice is left entirely to headhunting firms and university trustees with no meaningful community stakeholder participation, the hiring decision will be made by people who, overwhelmingly, are white, male and affluent.

Florida's colleges and universities have soared in the rankings led by presidents selected in the sunshine. If a person wants to hold a such a job that requires the highest levels of leadership, experience, confidence in decision-making and financial responsibility, that person should be prepared to be vetted thoroughly and must not fear public scrutiny. Headhunters already shape the presidential search process; secrecy will allow headhunters to control the process in the dark. Senate Bill 220 fails to provide public justification to move presidential searches into the shade. Accordingly, FAF opposes Senate Bill 220.

Thank you for your consideration. Please don't hesitate to contact the Foundation if you have any questions or concerns.

With best regards,

FIRST AMENDMENT FOUNDATION



Pamela C. Marsh
President