

## 2019-K293

Assembly Resolution No. 293

BY: M. of A. DiPietro

RECOGNIZING Secular Humanism as a religion for purposes of the First Amendment Establishment Clause

WHEREAS, It is the sense of this Legislative Body to recognize Secular Humanism, also referred to as postmodern western individualistic moral relativism or expressive individualism, as a religion for purposes of the First Amendment Establishment Clause; and

WHEREAS, The First Amendment Establishment Clause reads "Congress shall make no law respecting an establishment of religion"; and

WHEREAS, The First Amendment Establishment Clause also applies to both the executive branch and the judicial branch; and

WHEREAS, The Establishment Clause applies to the State of New York through the Fourteenth Amendment; and

WHEREAS, The State of New York is prohibited from enforcing policies that violate the Establishment Clause pursuant to Article VI of the United States Constitution; and

WHEREAS, All religion amounts to is a set of unproven answers to the greater questions like "why are we here" and "what should we be doing as humans"; and

WHEREAS, A Secular Humanism consists of a series of unproven faith-based assumptions and naked assertions that are implicitly religious, and the State of New York is prohibited from respecting and endorsing such truth claims through state action; and

WHEREAS, The First Amendment Establishment Clause was not just designed to prohibit the State of New York from respecting, endorsing, favoring, or recognizing the unproven truth claims and doctrines of institutionalized religions but also the Establishment Clause prohibits the State of New York from respecting, endorsing, favoring, or recognizing the unproven truth claims of non-institutionalized religions, like Secular Humanism; and

WHEREAS, The United States Supreme Court recognized that Secular Humanism is a religion for purposes of the First Amendment Establishment Clause in *Torcaso v. Watkins*, 367 U.S. 488 (1961), stating that religions "exist that do not teach what would generally be considered a belief in the existence of God, to include Atheism, Buddhism, Taoism, Ethical Culture, Secular Humanism and others; see *Washington Ethical Society v. District of Columbia*, 101 U.S. App. D.C. 371, 249 F.2d 127; *Fellowship of Humanity v. County of Alameda*, 153 Cal. App. 2d 673, 315 P. 2d 394; II *Encyclopaedia of the Social Sciences* 293; 4 *Encyclopaedia Britannica* (1957 ed.) 325-327; 21 *id.*, at 797; *Archer, Faiths Men Live By* (2d ed. revised by Purinton), 120-138, 254-313; 1961 *World Almanac* 695, 712; *Year Book of American Churches for 1961*, at 29, 47"; and

WHEREAS, Most of the Federal Courts of appeals have acknowledged that Secular Humanism is a religion in cases such as *Malnak v. Yogi*, 592

F.2d 197, 200-15 (3d Cir.1979), *Therault v. Silber*, 547 F.2d 1279, 1281 (5th Cir.1977), *Thomas v. Review Bd.*, 450 U.S. 707, 714, 101 S.Ct. 1425, 67 L.Ed.2d 624 (1981), *Lindell v. McCallum*, 352 F.3d 1107, 1110 (7th

Cir.2003), Real Alternatives, Inc. v. Sec'y Dep't of Health & Human Servs., 150 F.Supp. 3d 419, 2017 WL3324690 (3d Cir. Aug. 4, 2017), and Wells v. City and County of Denver, 257 F.3d 1132, 1148 (10th Cir. 2001); and

WHEREAS, The Supreme Court in cases such as County of Allegheny v. ACLU, 492 U.S. 573 (1989) and Lee v. Weissman, 505 U.S. 577 (1992) resolved that just as government officials may not favor or endorse one religion over others, so too officials may not favor or endorse the religion generally over non-religion; and

WHEREAS, Self-asserted sex-based identity narratives that are questionably real, moral, and decent are implicitly religious in nature and flow out of the religion of Secular Humanism; and

WHEREAS, The ideas that "sexual orientation is immutable" or that "life does not begin at conception" are an unproven truth claims and naked assertions that are doctrines that are inseparably linked to the religion of Secular Humanism; and

WHEREAS, Emotional appeals nor sincerity of belief can be used to usurp the Establishment Clause; and

WHEREAS, At the heart of Secular Humanism is the unproven premise that there is no such thing as absolute truth and that truth is merely a man-made convention; and

WHEREAS, The fundamental principle of Secular Humanism is what is right for me is right for me and what is right for you is right for you; and

WHEREAS, The idea that all moral doctrine are equal and that no one

set of moral doctrine should be used as the superior basis for law over another is itself a moral doctrine that suggest that it should be used as the superior basis for law over all others; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to recognize Secular Humanism as a religion for purposes of the First Amendment Establishment Clause prohibiting the State of New York from respecting, recognizing, endorsing, favoring, or enforcing policies that have the effect of entangling the government with the religion of Secular Humanism, placing religion over non-religion, or from endorsing the religion of Secular Humanism though state action; and be it further

RESOLVED, That this Legislative Body pause further to recognize that in view of the Free Exercise Clause of the First Amendment of the United States and New York Constitution, any individual living in this state may self-identify as a Secular Humanist and practice Secular Humanism own their own as long as the practices do not violate existing federal and state law; and be it further

RESOLVED, That this Legislative Body pause further to recognize that the unproven truth claims of Secular Humanism do not fulfill any compelling state interest and tend to undermine compelling state interest to uphold community standards of decency.