

AN ACT

relating to the protection of expressive activities at public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) freedom of expression is of critical importance and requires each public institution of higher education to ensure free, robust, and uninhibited debate and deliberations by students enrolled at the institution, regardless of whether the students are on or off campus; and

(2) it is a matter of statewide concern that all public institutions of higher education officially recognize freedom of speech as a fundamental right.

SECTION 2. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9315 to read as follows:

Sec. 51.9315. PROTECTED EXPRESSION ON CAMPUS. (a) In this section:

(1) "Benefit" includes:

(A) recognition by or registration with an institution of higher education;

(B) the use of an institution of higher education's facilities for meetings or speaking purposes;

(C) the use of channels of communication controlled by an institution of higher education; and

1           (D) funding sources made generally available to  
2 student organizations at an institution of higher education.

3           (2) "Expressive activities" means any speech or  
4 expressive conduct protected by the First Amendment to the United  
5 States Constitution or by Section 8, Article I, Texas Constitution,  
6 and includes assemblies, protests, speeches, the distribution of  
7 written material, the carrying of signs, and the circulation of  
8 petitions. The term does not include commercial speech.

9           (3) "Institution of higher education" has the meaning  
10 assigned by Section 61.003.

11           (4) "Student organization" includes any organization  
12 that is composed mostly of students enrolled at an institution of  
13 higher education and that receives a benefit from the institution.

14           (b) It is the policy of this state and the purpose of this  
15 section to protect the expressive rights of persons guaranteed by  
16 the constitutions of the United States and of this state by:

17           (1) recognizing freedom of speech and assembly as  
18 central to the mission of institutions of higher education; and

19           (2) ensuring that all persons may assemble peaceably  
20 on the campuses of institutions of higher education for expressive  
21 activities, including to listen to or observe the expressive  
22 activities of others.

23           (c) An institution of higher education shall:

24           (1) ensure that the common outdoor areas of the  
25 institution's campus are deemed traditional public forums; and

26           (2) permit any person to engage in expressive  
27 activities in those areas of the institution's campus freely, as

1 long as the person's conduct:

2 (A) is not unlawful; and

3 (B) does not materially and substantially  
4 disrupt the functioning of the institution.

5 (d) Notwithstanding Subsection (c), an institution of  
6 higher education may adopt a policy that imposes reasonable  
7 restrictions on the time, place, and manner of expressive  
8 activities in the common outdoor areas of the institution's campus  
9 if those restrictions:

10 (1) are narrowly tailored to serve a significant  
11 institutional interest;

12 (2) employ clear, published, content-neutral, and  
13 viewpoint-neutral criteria;

14 (3) provide for ample alternative means of expression;  
15 and

16 (4) allow members of the university community to  
17 assemble or distribute written material without a permit or other  
18 permission from the institution.

19 (e) Subsections (c) and (d) do not:

20 (1) limit the right of student expression at other  
21 campus locations; or

22 (2) prohibit faculty members from maintaining order in  
23 the classroom.

24 (f) Each institution of higher education shall adopt a  
25 policy detailing students' rights and responsibilities regarding  
26 expressive activities at the institution. The policy must:

27 (1) allow:

1           (A) any person to, subject to reasonable  
2 restrictions adopted under Subsection (d), engage in expressive  
3 activities on campus, including by responding to the expressive  
4 activities of others; and

5           (B) student organizations and faculty to,  
6 subject to Subsection (h), invite speakers to speak on campus;

7           (2) establish disciplinary sanctions for students,  
8 student organizations, or faculty who unduly interfere with the  
9 expressive activities of others on campus;

10          (3) include a grievance procedure for addressing  
11 complaints of a violation of this section;

12          (4) be approved by a majority vote of the institution's  
13 governing board before final adoption; and

14          (5) be posted on the institution's Internet website.

15          (g) An institution of higher education may not take action  
16 against a student organization or deny the organization any benefit  
17 generally available to other student organizations at the  
18 institution on the basis of a political, religious, philosophical,  
19 ideological, or academic viewpoint expressed by the organization or  
20 of any expressive activities of the organization.

21          (h) In determining whether to approve a speaker to speak on  
22 campus or in determining the amount of a fee to be charged for use of  
23 the institution's facilities for purposes of engaging in expressive  
24 activities, an institution of higher education:

25          (1) may consider only content-neutral and  
26 viewpoint-neutral criteria related to the needs of the event, such  
27 as:

1           (A) the proposed venue and the expected size of  
2 the audience;

3           (B) any anticipated need for campus security;

4           (C) any necessary accommodations; and

5           (D) any relevant history of compliance or  
6 noncompliance by the requesting student organization or faculty  
7 member with the institution's policy adopted under Subsection (f)  
8 and any other relevant policies; and

9           (2) may not consider any anticipated controversy  
10 related to the event.

11           (i) Each institution of higher education shall make the  
12 institution's policies adopted in accordance with this section  
13 available to students enrolled at and employees of the institution  
14 by:

15           (1) including the policies in the institution's  
16 student handbook and personnel handbook;

17           (2) providing a copy of each policy to students during  
18 the institution's freshman or transfer student orientation; and

19           (3) posting the policies on the institution's Internet  
20 website.

21           (j) Each institution of higher education shall develop  
22 materials, programs, and procedures to ensure that the  
23 institution's employees responsible for educating or disciplining  
24 students understand the requirements of this section and all  
25 policies adopted by the institution in accordance with this  
26 section.

27           (k) Not later than December 1, 2020, each institution of

1 higher education shall prepare, post on the institution's Internet  
2 website, and submit to the governor and the members of the  
3 legislature a report regarding the institution's implementation of  
4 the requirements under this section. This subsection expires  
5 September 1, 2021.

6 SECTION 3. Not later than August 1, 2020, each public  
7 institution of higher education shall adopt the policy required  
8 under Section 51.9315(f), Education Code, as added by this Act.

9 SECTION 4. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 18 passed the Senate on March 20, 2019, by the following vote: Yeas 31, Nays 0; May 20, 2019, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2019, House granted request of the Senate; May 25, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 29, Nays 1.

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Secretary of the Senate

I hereby certify that S.B. No. 18 passed the House, with amendments, on May 17, 2019, by the following vote: Yeas 97, Nays 49, one present not voting; May 22, 2019, House granted request of the Senate for appointment of Conference Committee; May 25, 2019, House adopted Conference Committee Report by the following vote: Yeas 106, Nays 37, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor