

1-1 By: Huffman, Nelson S.B. No. 18
1-2 (In the Senate - Filed February 25, 2019; March 1, 2019,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 13, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 13, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Fallon	X		
1-14	Hall	X		
1-15	Lucio	X		
1-16	Nelson	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 18 By: Huffman

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the protection of expressive activities at public
1-22 institutions of higher education.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
1-25 amended by adding Section 51.9315 to read as follows:

1-26 Sec. 51.9315. PROTECTED EXPRESSION ON CAMPUS. (a) In this
1-27 section:

1-28 (1) "Benefit" includes:

1-29 (A) recognition by or registration with an
1-30 institution of higher education;

1-31 (B) the use of an institution of higher
1-32 education's facilities for meetings or speaking purposes;

1-33 (C) the use of channels of communication
1-34 controlled by an institution of higher education; and

1-35 (D) funding sources made generally available to
1-36 student organizations at an institution of higher education.

1-37 (2) "Expressive activities" means any speech or
1-38 expressive conduct protected by the First Amendment to the United
1-39 States Constitution or by Section 8, Article I, Texas Constitution,
1-40 and includes assemblies, protests, speeches, the distribution of
1-41 written material, the carrying of signs, and the circulation of
1-42 petitions. The term does not include commercial speech.

1-43 (3) "Institution of higher education" has the meaning
1-44 assigned by Section 61.003.

1-45 (4) "Student organization" includes any organization
1-46 that is composed mostly of students enrolled at an institution of
1-47 higher education and that receives a benefit from the institution.

1-48 (b) It is the policy of this state to protect the expressive
1-49 rights of persons guaranteed by the constitutions of the United
1-50 States and of this state by:

1-51 (1) recognizing freedom of speech and assembly as
1-52 central to the mission of institutions of higher education; and

1-53 (2) ensuring that all persons may assemble peaceably
1-54 on the campuses of institutions of higher education for expressive
1-55 activities, including to listen to the speech of others.

1-56 (c) An institution of higher education shall:

1-57 (1) ensure that the common outdoor areas of the
1-58 institution's campus are deemed traditional public forums; and

1-59 (2) permit any person to engage in expressive
1-60 activities in those areas of the institution's campus freely, as

2-1 long as the person's conduct:
2-2 (A) is not unlawful; and
2-3 (B) does not materially and substantially
2-4 disrupt the functioning of the institution.
2-5 (d) Notwithstanding Subsection (c), an institution of
2-6 higher education may adopt a policy that imposes reasonable
2-7 restrictions on the time, place, and manner of expressive
2-8 activities in the common outdoor areas of the institution's campus
2-9 if those restrictions:
2-10 (1) are narrowly tailored to serve a significant
2-11 institutional interest;
2-12 (2) employ clear, published, content-neutral, and
2-13 viewpoint-neutral criteria;
2-14 (3) provide for ample alternative means of expression;
2-15 and
2-16 (4) allow members of the university community to
2-17 assemble or distribute written material without a permit or other
2-18 permission from the institution.
2-19 (e) Subsections (c) and (d) do not limit the right of
2-20 student expression at other campus locations.
2-21 (f) Each institution of higher education shall adopt a
2-22 policy detailing students' rights and responsibilities regarding
2-23 expressive activities at the institution. The policy must:
2-24 (1) allow:
2-25 (A) any person to, subject to reasonable
2-26 restrictions adopted under Subsection (d), engage in expressive
2-27 activities on campus, including by responding to the expressive
2-28 activities of others; and
2-29 (B) student organizations and faculty to,
2-30 subject to Subsection (h), invite speakers to speak on campus;
2-31 (2) establish disciplinary sanctions for students,
2-32 student organizations, or faculty who unduly interfere with the
2-33 expressive activities of others on campus;
2-34 (3) include a grievance procedure for addressing
2-35 complaints of a violation of this section;
2-36 (4) be approved by a majority vote of the institution's
2-37 governing board before final adoption; and
2-38 (5) be posted on the institution's Internet website.
2-39 (g) An institution of higher education may not take action
2-40 against a student organization or deny the organization any benefit
2-41 generally available to other student organizations at the
2-42 institution on the basis of a political, religious, philosophical,
2-43 ideological, or academic viewpoint expressed by the organization or
2-44 of any expressive activities of the organization.
2-45 (h) In determining whether to approve a speaker to speak on
2-46 campus or in determining the amount of a fee to be charged for use of
2-47 the institution's facilities for purposes of engaging in expressive
2-48 activities, an institution of higher education:
2-49 (1) may consider only content-neutral and
2-50 viewpoint-neutral criteria related to the needs of the event, such
2-51 as:
2-52 (A) the proposed venue and the expected size of
2-53 the audience;
2-54 (B) any anticipated need for campus security;
2-55 (C) any necessary accommodations; and
2-56 (D) any relevant history of compliance or
2-57 noncompliance by the requesting student organization or faculty
2-58 member with the institution's policy adopted under Subsection (f)
2-59 and any other relevant policies; and
2-60 (2) may not consider any anticipated controversy
2-61 related to the event.
2-62 (i) Each institution of higher education shall make the
2-63 institution's policies adopted in accordance with this section
2-64 available to students enrolled at and employees of the institution
2-65 by:
2-66 (1) including the policies in the institution's
2-67 student handbook and personnel handbook;
2-68 (2) providing a copy of each policy to students during
2-69 the institution's freshman or transfer student orientation; and

3-1 (3) posting the policies on the institution's Internet
3-2 website.

3-3 (j) Each institution of higher education shall develop
3-4 materials, programs, and procedures to ensure that the
3-5 institution's employees responsible for educating or disciplining
3-6 students understand the requirements of this section and all
3-7 policies adopted by the institution in accordance with this
3-8 section.

3-9 (k) Not later than December 1, 2020, each institution of
3-10 higher education shall prepare, post on the institution's Internet
3-11 website, and submit to the governor and the members of the
3-12 legislature a report regarding the institution's implementation of
3-13 the requirements under this section. This subsection expires
3-14 September 1, 2021.

3-15 SECTION 2. Not later than August 1, 2020, each public
3-16 institution of higher education shall adopt the policy required
3-17 under Section 51.9315(f), Education Code, as added by this Act.

3-18 SECTION 3. This Act takes effect September 1, 2019.

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