

By: González of El Paso

H.B. No. 422

A BILL TO BE ENTITLED

AN ACT

relating to speech protections for student publications in public schools.

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

SECTION 1. Subchapter 2, Chapter 25, Education Code, is amended by adding Section 25.903 to read as follows:

Sec. 25.903. STUDENT PUBLICATIONS. (a) In this section, "protected speech" means speech protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution. The term does not include speech that:

(1) is obscene or libelous;

(2) is intended to incite the imminent commission of a crime or violation of school policy and is likely to produce that result; or

(3) substantially disrupts a school's operation.

(b) The board of trustees of a school district shall adopt a written policy establishing rules regarding a student's right to exercise freedom of the press at school. The board may not impose greater restrictions on publications produced using the district's money, equipment, or facilities than those imposed on publications not produced using those resources.

(c) The policy must:

(1) permit students, under the guidance of a journalism or student publication advisor employed by the school

1 district, to determine the content of the publication, so long as
2 the content constitutes protected speech;

3 (2) prohibit the school district or any employee of
4 the district from censoring protected speech or from punishing a
5 student for engaging in protected speech; and

6 (3) limit the scope and duration of a district
7 employee's review of the publication before being published only to
8 what is reasonably necessary to:

9 (A) determine whether the publication contains
10 content other than protected speech; and

11 (B) if appropriate, remove content other than
12 protected speech from the publication.

13 (d) The publication of a student publication may not be
14 unreasonably delayed for purposes of conducting a review described
15 by Subsection (c)(3).

16 (e) An employee of a school district may not be subjected to
17 disciplinary action or any other form of punishment or retaliation
18 for acting to protect or refusing to infringe upon a student's
19 rights as provided by this section.

20 (f) The commissioner shall adopt rules as necessary to
21 implement this section, including rules establishing a process for
22 a student to appeal a school district employee's removal of content
23 from a student publication.

24 SECTION 2. Section 12.104(b), Education Code, as amended by
25 Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943
26 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is
27 reenacted and amended to read as follows:

1 (b) An open-enrollment charter school is subject to:

2 (1) a provision of this title establishing a criminal
3 offense;

4 (2) the provisions in Chapter 554, Government Code;
5 and

6 (3) a prohibition, restriction, or requirement, as
7 applicable, imposed by this title or a rule adopted under this
8 title, relating to:

9 (A) the Public Education Information Management
10 System (PEIMS) to the extent necessary to monitor compliance with
11 this subchapter as determined by the commissioner;

12 (B) criminal history records under Subchapter C,
13 Chapter 22;

14 (C) reading instruments and accelerated reading
15 instruction programs under Section 28.006;

16 (D) accelerated instruction under Section
17 28.0211;

18 (E) high school graduation requirements under
19 Section 28.025;

20 (F) special education programs under Subchapter
21 A, Chapter 29;

22 (G) bilingual education under Subchapter B,
23 Chapter 29;

24 (H) prekindergarten programs under Subchapter E
25 or E-1, Chapter 29;

26 (I) extracurricular activities under Section
27 33.081;

- 1 (J) discipline management practices or behavior
2 management techniques under Section 37.0021;
- 3 (K) health and safety under Chapter 38;
- 4 (L) public school accountability under
5 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 6 (M) the requirement under Section 21.006 to
7 report an educator's misconduct;
- 8 (N) intensive programs of instruction under
9 Section 28.0213;
- 10 (O) the right of a school employee to report a
11 crime, as provided by Section 37.148;
- 12 (P) bullying prevention policies and procedures
13 under Section 37.0832;
- 14 (Q) the right of a school under Section 37.0052
15 to place a student who has engaged in certain bullying behavior in a
16 disciplinary alternative education program or to expel the student;
- 17 (R) the right under Section 37.0151 to report to
18 local law enforcement certain conduct constituting assault or
19 harassment;
- 20 (S) a parent's right to information regarding the
21 provision of assistance for learning difficulties to the parent's
22 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);
- 23 (T) establishment of residency under Section
24 25.001;
- 25 (U) [~~(T)~~] school safety requirements under
26 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
27 37.207, and 37.2071;

1 (V) [~~(T)~~] the early childhood literacy and
2 mathematics proficiency plans under Section 11.185; [~~and~~]

3 (W) [~~(U)~~] the college, career, and military
4 readiness plans under Section 11.186; and

5 (X) speech protections for student publications
6 under Section 25.903.

7 SECTION 3. This Act applies beginning with the 2021-2022
8 school year.

9 SECTION 4. To the extent of any conflict, this Act prevails
10 over another Act of the 87th Legislature, Regular Session, 2021,
11 relating to nonsubstantive additions to and corrections in enacted
12 codes.

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2021.