

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2972
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Education K-16
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In April 2024, universities across the nation saw massive disruption on their campus. Protesters erected encampments in common areas, intimidated other students through the use of bullhorns and speakers, and lowered American flags with the intent of raising the flag of another nation.

S.B. 2972 seeks to provide clear rules for protests on college campuses and to assist institutions in managing members of the public who seek to overtake their campus.

Public institutions of higher education shall expand on their existing campus free speech policies in order to:

- prohibit encampments on campus property, at any time;
- prohibit the use of masks, face coverings or other means of hiding one's identity during demonstrations;
- prohibit the use of bullhorns, speakers or other amplifiers on campus during class hours;
- prohibit protests or demonstrations during the last two weeks of a semester;
- prohibit the lowering of American flags on campus with the intent of replacing the American flag with another nation's, organization's or people group's flag; or
- require students and faculty to present a valid ID when asked by a member of campus or public law enforcement.

S.B. 2972 also grants boards of regents authority to designate what is considered a public forum on campuses of member institutions.

The committee substitute provides clarifying language that aligns with existing institutional policy and ensures strict scrutiny for what is considered public fora on college campuses.

C.S.S.B. 2972 amends current law relating to expressive activities at public institutions of higher education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 51.9315(a)(2), (3), and (4), Education Code, to redefine "expressive activities" and "student organization" and to define "governing board" and to make nonsubstantive changes.

SECTION 2. Amends Section 51.9315, Education Code, by amending Subsections (b), (c), (d), and (f) and adding Subsections (d-1) and (k), as follows:

- (b) Provides that it is the policy of this state and the purpose of Section 51.9315 (Protected Expression on Campus) to protect the expressive rights of persons guaranteed by the constitutions of the United States and of this state by certain means, including ensuring that students enrolled at and employees of an institution of higher education, rather than all persons, are authorized to assemble peaceably on the campuses of the

institution, rather than on the campuses of institutions of higher education, for expressive activities, including to listen to or observe the expressive activities of others.

(c) Requires an institution of higher education to permit students enrolled at and employees of the institution to engage in expressive activities in the common outdoor areas of the institution's campus freely, as long the expressive activity meets certain requirements. Deletes existing text requiring an institution of higher education to ensure that the common outdoor areas of the institution's campus are deemed traditional public forums and permit any person to engage in expressive activities in those areas of the institution's campus freely, as long as the person's conduct meets certain requirements. Makes nonsubstantive changes.

(d) Authorizes an institution of higher education, notwithstanding Subsection (c), to adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities of students enrolled at and employees of the institution in the common outdoor areas of the institution's campus if those restrictions:

(1) are reasonable in light of the purpose of the area to which the restrictions apply, rather than narrowly tailored to serve a significant institutional interest;

(2)-(3) makes no changes to these subdivisions; and

(4) allow students enrolled at and employees of the institution, rather than members of the university community, to assemble or distribute written material without a permit or other permission from the institution.

(d-1) Authorizes the governing board of an institution of higher education to designate the areas on the institution's campus that are public forums, consistent with the First Amendment to the United States Constitution and Section 8 (Freedom of Speech and Press; Libel), Article I (Bill of Rights), Texas Constitution.

(f) Requires each institution of higher education to adopt a policy detailing rights, rather than students' rights, and responsibilities regarding expressive activities at the institution. Requires that the policy:

(1) allow:

(A) students enrolled at and employees of the institution, rather than any person, subject to reasonable restrictions adopted under Subsection (d), to engage in expressive activities on campus, including by responding to the expressive activities of others; and

(B) student organizations and faculty to, subject to Subdivision (2)(B)(ii) and Subsection (h), invite speakers to speak on campus;

(2) prohibit:

(A) using a device to amplify sound while engaging in expressive activities on campus during class hours;

(B) during the last two weeks of a semester or term, engaging in expressive activities:

(i) in the common outdoor areas of the institution's campus in a manner that materially and substantially disrupts the functioning of the institution;

(ii) by inviting speakers to speak on campus;

(iii) by using a device to amplify sound; or

(iv) by using drums or other percussive instruments;

(C) camping or erecting tents or other living accommodations on campus;

(D) wearing a mask, facial covering, disguise, or other means of concealing a person's identity while engaging in expressive activities on campus with the intent to obstruct the enforcement of the institution's rules or the law by avoiding identification, intimidate others, or interfere with an institution employee's or a peace officer's lawful performance of a duty;

(E) lowering the institution's flag of the United States or of this state with the intent to raise the flag of another nation or a flag representing an organization or group of people; and

(F) engaging in expressive activities on campus between the hours of 10 p.m. and 8 a.m.;

(3) establish disciplinary sanctions for students, student organizations, or employees, rather than faculty, who unduly interfere with the expressive activities of others on campus or violate an institution policy or state law;

(4) makes a nonsubstantive change to this subdivision;

(5) require students enrolled at or employees of the institution to present proof of identity and status at the institution on request by a peace officer on the institution's campus engaging in an official duty; and

(6)-(7) makes nonsubstantive changes to these subdivisions.

Makes nonsubstantive changes to this subsection.

(k) Provides that nothing in this section limits the authority of an institution of higher education to adopt rules differentiating between the rights of students and employees to engage in expressive activities on campus and those of persons not affiliated with the institution.

SECTION 3. Provides that Section 51.9315, Education Code, as amended by this Act, applies beginning with the 2025–2026 academic year.

SECTION 4. Effective date: upon passage or September 1, 2025.