

By: Creighton, et al.

S.B. No. 2972

A BILL TO BE ENTITLED

AN ACT

relating to expressive activities at public institutions of higher education.

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

SECTION 1. Sections 51.9315(a)(2), (3), and (4), Education Code, are amended to read as follows:

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

(A) commercial speech;

(B) defamation;

(C) unlawful harassment;

(D) incitement to imminent unlawful activity;

(E) obscenity; or

(F) threats to engage in unlawful activity.

(3) "Governing board" and "institution" ~~["Institution]~~ of higher education" have ~~[has]~~ the meanings ~~[meaning]~~ assigned by Section 61.003.

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

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

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

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

(2) ensuring that students enrolled at and employees of an institution of higher education ~~[all persons]~~ may assemble peaceably on the campuses of the institution ~~[institutions of higher education]~~ for expressive activities, including to listen to or observe the expressive activities of others.

(c) An institution of higher education shall~~[-~~

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

~~[(2)]~~ permit students enrolled at and employees of the institution ~~[any person]~~ to engage in expressive activities in the common outdoor ~~[those]~~ areas of the institution's campus freely, as long as the expressive activity ~~[person's conduct]~~:

(1) ~~[(A)]~~ is not unlawful; and

(2) ~~[(B)]~~ does not materially and substantially disrupt the functioning of the institution.

(d) Notwithstanding Subsection (c), an institution of higher education may 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

1 in the common outdoor areas of the institution's campus if those  
2 restrictions:

3 (1) are reasonable in light of the purpose of the area  
4 to which the restrictions apply [~~narrowly tailored to serve a~~  
5 ~~significant institutional interest~~];

6 (2) employ clear, published, [~~content-neutral,~~] and  
7 viewpoint-neutral criteria; and

8 (3) [~~provide for ample alternative means of~~  
9 ~~expression; and~~

10 [~~(4)~~] allow students enrolled at and employees of the  
11 institution [~~members of the university community~~] to assemble or  
12 distribute written material without a permit or other permission  
13 from the institution.

14 (d-1) The governing board of an institution of higher  
15 education may designate the areas on the institution's campus that  
16 are public forums, consistent with the First Amendment to the  
17 United States Constitution and Section 8, Article I, Texas  
18 Constitution.

19 (f) Each institution of higher education shall adopt a  
20 policy detailing [~~students'~~] rights and responsibilities regarding  
21 expressive activities at the institution. The policy must:

22 (1) allow:

23 (A) students enrolled at and employees of the  
24 institution [~~any person~~] to, subject to reasonable restrictions  
25 adopted under Subsection (d), engage in expressive activities on  
26 campus, including by responding to the expressive activities of  
27 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:

(i) obstruct the enforcement of the institution's rules or the law by avoiding identification;

(ii) intimidate others; or

(iii) 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

1 States or of this state with the intent to raise the flag of another  
2 nation or a flag representing an organization or group of people;  
3 and

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

6 (3) [~~(2)~~] establish disciplinary sanctions for  
7 students, student organizations, or employees [~~faculty~~] who unduly  
8 interfere with the expressive activities of others on campus or  
9 violate an institution policy or state law;

10 (4) [~~(3)~~] include a grievance procedure for  
11 addressing complaints of a violation of this section;

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

16 (6) [~~(4)~~] be approved by a majority vote of the  
17 institution's governing board before final adoption; and

18 (7) [~~(5)~~] be posted on the institution's Internet  
19 website.

20 (k) Nothing in this section limits the authority of an  
21 institution of higher education to adopt rules differentiating  
22 between the rights of students and employees to engage in  
23 expressive activities on campus and those of persons not affiliated  
24 with the institution.

25 SECTION 3. Section 51.9315, Education Code, as amended by  
26 this Act, applies beginning with the 2025-2026 academic year.

27 SECTION 4. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2025.