

2022 Regular Session

HOUSE BILL NO. 185

BY REPRESENTATIVE CHARLES OWEN

1 AN ACT

2 To amend and reenact R.S. 17:3399.31, 3399.32(E), and 3399.35(3) and (5) and to enact
3 R.S. 17:3399.32(F) and (G) and 3399.38, relative to expressive activities at public
4 postsecondary education institutions; to authorize institutions to require permits for
5 expressive activities and to charge fees associated with such permits; to provide for
6 policies and definitions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:3399.31, 3399.32(E), and 3399.35(3) and (5) are hereby amended
9 and reenacted and R.S. 17:3399.32(F) and (G) and 3399.38 are hereby enacted to read as
10 follows:

11 §3399.31. Definitions

12 For the purposes of this Part, the following words, terms, and phrases shall
13 have the following meanings, unless the context clearly requires otherwise:

14 (1) "Expressive activities" include but are not limited to any lawful verbal
15 or written means by which individuals or groups communicate ideas to one another,
16 as provided by the First Amendment of the Constitution of the United States of
17 America and by the Constitution of Louisiana, including all forms of peaceful
18 assembly, protest, speech, distribution of literature, carrying signs, and circulating
19 petitions. This expressly excludes commercial activities where individuals or groups
20 are being compensated or attempting to advertise, market, or accrue financial gain
21 to any individual, corporation, business, or organization.

22 (2) "Material and substantial disruption" means when a person, with the
23 intent and knowledge of doing so, significantly hinders expressive activity, prevents

1 the communication of the message, or prevents the transaction of the business of a
2 lawful meeting, gathering, or procession by either of the following:

3 (a) Engaging in fighting, violence, or similar unlawful behavior.

4 (b) Physically blocking or using threats of violence to prevent any person
5 from attending, listening to, viewing, or otherwise participating in an expressive
6 activity.

7 ~~(2)~~ (3) "Outdoor areas" are outside areas generally accessible to the majority
8 of students, administrators, faculty, and staff, such as grassy areas, walkways, or
9 other similar common areas, and do not include areas where access is restricted.

10 (4) "Student" means any person who is enrolled on a full-time or part-time
11 basis in a public postsecondary education institution.

12 (5) "Student-on-student discriminatory harassment" means unwelcome
13 conduct that targets its victim on the basis of a class protected under federal, state,
14 or local law and that is so severe, pervasive, and objectively offensive and so
15 undermines and detracts from the victim's educational experience that the victim is
16 effectively denied equal access to an institution's resources and opportunities.

17 ~~(3)~~ (6) "Student organization" means an officially recognized group at a
18 public postsecondary education institution, or a group seeking official recognition,
19 comprised of ~~admitted~~ enrolled students.

20 §3399.32. Expressive activities; public postsecondary education institutions;
21 protected

22 * * *

23 E.(1) A public postsecondary education institution may require a permit from
24 any individual or group as a condition of being granted exclusive control of a
25 location for expressive activity at a reserved time. Any such permitting process shall
26 not be overly burdensome, and applications for permits shall be evaluated solely
27 based on published content-neutral and viewpoint-neutral criteria. If a public
28 postsecondary education institution denies a permit, it shall provide a reason for
29 doing so in writing within two business days to the applicant and allow the applicant
30 to appeal the denial.

1 §3399.35. Management boards; policy on free expression

2 Each public postsecondary education management board, in collaboration
3 with the Board of Regents, shall develop and adopt policies on free expression that
4 contain at least the following:

5 * * *

6 (3) A provision that students and faculty have the freedom to discuss any
7 topic that presents itself, as provided under the First Amendment of the Constitution
8 of the United States of America and Article I, Section 7 of the Constitution of
9 Louisiana and other applicable laws permit and within the limits on time, place, and
10 manner of expression that are consistent with this Part and that are ~~necessary to~~
11 ~~achieve~~ in furtherance of a significant institutional interest; such restrictions shall be
12 published and provide ample alternative means of expression.

13 * * *

14 (5) A provision that any person lawfully present on a campus may protest or
15 demonstrate there. Protests and demonstrations that infringe upon the constitutional
16 rights of others to engage in or listen to expressive activity by creating a substantial
17 and material disruption to the functioning of the institution or to someone's
18 expressive activity in any location reserved for that expressive activity shall not be
19 permitted. No conduct shall be deemed a material and substantial disruption that is
20 protected under the First Amendment to the United States Constitution or Article I,
21 Section 7 of the Constitution of Louisiana. Such protected conduct includes but is
22 not limited to lawful protests and counter-protests in the outdoor areas of campus
23 generally accessible to the members of the public except during times when these
24 areas have been reserved in advance for other events or minor, brief, or fleeting
25 nonviolent disruptions of events that are isolated and short in duration.

26 * * *

1 §3399.38. Conflict with other laws

2 The provisions of this Part shall supersede and control to the extent of any
3 conflict with any other provision of law and shall govern a public postsecondary
4 education institution's obligation to address all forms of discriminatory harassment
5 perpetrated by one student on another, including sexual harassment.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____