

SENATE BILL NO. 294

BY SENATORS HODGES, BASS, CLOUD, EDMONDS, FESI, HENRY, MIGUEZ,
MORRIS, PRESSLY AND SEABAUGH AND REPRESENTATIVES
AMEDEE, CARLSON, EDMONSTON, MELERINE AND OWEN

1 AN ACT

2 To amend and reenact the heading of Part XIV of Chapter 26 of Title 17 of the Louisiana
3 Revised Statutes of 1950, and R.S. 17:3399.31(1), (2), and (5), 3399.32(A), 3399.33,
4 the heading and introductory paragraph of R.S. 17:3399.34, and 3399.38 and to enact
5 R.S. 17:3399.34(4), (5), and (6), 3399.39, 3399.40, and 3399.41, relative to free
6 speech and First Amendment protected expressive activities on the campuses of
7 public postsecondary education institutions; to provide with respect to
8 constitutionally protected activities; to provide with respect to free speech; to provide
9 with respect to lawful assembly; to provide with respect to religious liberty; to
10 provide with respect to religious or faith-based student organizations; to provide with
11 respect to the election of officers, choice of leaders, or acceptance of members of
12 religious and faith-based student organizations; to prohibit protections for activities
13 conducted by organizations that have been designated as a foreign terrorist
14 organization by the federal government; to prohibit protections for activities that are
15 in violation of criminal law; to provide with respect to the right of association; to
16 provide with respect to individual dignity; to prohibit discrimination on the basis of
17 political ideas, affiliations, or ideology; to provide with respect to due process; to
18 provide for remedies; to provide for definitions; to provide for exclusions; to provide
19 for an effective date; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. The heading of Part XIV of Chapter 26 of Title 17 of the Louisiana
22 Revised Statutes of 1950, and R.S. 17:3399.31(1), (2), and (5), 3399.32(A), 3399.33, the
23 heading and introductory paragraph of R.S. 17:3399.34, and 3399.38 are hereby amended

1 and reenacted and R.S. 17:3399.34(4), (5), and (6), 3399.39, 3399.40, and 3399.41 are
 2 hereby enacted to read as follows:

3 PART XIV. ~~CAMPUS FREE EXPRESSION~~ SPEECH AND FIRST
 4 AMENDMENT PROTECTED EXPRESSIVE ACTIVITIES ON CAMPUSES

5 §3399.31. Definitions

6 As used in this Part, the following terms have the following meanings unless
 7 the context clearly indicates otherwise:

8 (1) "~~Free speech and First Amendment~~ Expressive protected expressive
 9 activities" include but are not limited to any lawful verbal or written means by which
 10 individuals or groups communicate ideas to one another, as provided by the First
 11 Amendment of the Constitution of the United States of America and by Article I,
 12 Section 7 of the Constitution of Louisiana, including all forms of peaceful assembly,
 13 lawful protest, speech, distribution of literature, carrying signs, and circulating
 14 petitions. ~~This "Free speech and First Amendment protected expressive~~
 15 activities" expressly excludes all of the following:

16 (a) ~~commercial~~ Commercial activities ~~where in which~~ individuals or groups
 17 are being compensated or attempting to advertise, market, or accrue financial gain
 18 to any individual, corporation, business, or organization.

19 (b) Activities in which an individual or group is knowingly being
 20 monetarily funded or organized by any individual, corporation, business, or
 21 organization that has been designated as a foreign terrorist organization or
 22 foreign adversary by the United States Department of State, pursuant to 8
 23 U.S.C. 1189 or 15 CFR 7.4.

24 (c) Any criminal activity which is prohibited under Title 14 of the
 25 Louisiana Revised Statutes of 1950 or any other provision of state law with
 26 criminal penalties.

27 (2) "Material and substantial disruption" means when a person, with the
 28 intent and knowledge of doing so, significantly hinders ~~expressive activity~~ free
 29 speech and First Amendment protected expressive activities, prevents the
 30 communication of the message, or prevents the transaction of the business of a

1 lawful meeting, gathering, or procession by either of the following:

2 (a) Engaging in ~~fighting~~ **assault, battery, attempted battery**, violence, or
3 similar unlawful behavior **in violation of Title 14 of the Louisiana Revised**
4 **Statutes of 1950 or any other provision of state law with criminal penalties.**

5 (b) Physically blocking or using threats of violence to prevent any person
6 from attending, listening to, viewing, or otherwise participating in ~~an expressive~~
7 **activity a free speech and First Amendment protected expressive activity.**

8 * * *

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

15 * * *

16 §3399.32. ~~Expressive~~ **Free speech and First Amendment protected expressive**
17 **activities; public postsecondary education institutions; protected**

18 A. ~~Expressive~~ **Free speech and First Amendment protected expressive**
19 **activities at public postsecondary education institutions by students, administrators,**
20 **faculty members, staff members, and invited guests are protected, pursuant to the**
21 **First Amendment of the Constitution of the United States of America and**
22 **Article I, Section 7 of the Constitution of Louisiana.**

23 * * *

24 §3399.33. Freedom of association; **religious liberty; faith-based** student
25 **organizations; political or ideological belief-based organizations**

26 **A.** No public postsecondary education institution shall deny a **political or**
27 **ideological** belief-based **organization or a religious or faith-based** student
28 organization any benefit or privilege available to any other student organization, or
29 otherwise discriminate against a **political or ideological** belief-based **organization**
30 **or a faith-based** organization, based on the ~~expression~~ **political, ideological, or**

1 religious beliefs of the organization, ~~including any requirement that the,~~

2 **B. No public postsecondary education institution shall engage in**
3 **discrimination on the basis of political, ideological, or religious beliefs against**
4 **any organization or the organization's** leaders or members of the organization **in**
5 **a manner that does any of the following:**

6 (1) ~~Affirm and adhere to~~ **Restricts** the organization's sincerely held **religious**
7 **beliefs or the political or ideological beliefs of the organization.**

8 (2) ~~Comply~~ **Restricts compliance** with the organization's standards of
9 conduct **with respect to free speech and First Amendment protected expressive**
10 **activities.**

11 (3) ~~Further~~ **Restricts** the organization's mission or purpose, as defined by the
12 organization **with respect to free speech and First Amendment protected**
13 **expressive activities.**

14 (4) **Requires the organization to accept elected officers, choose leaders,**
15 **or accept members who are not members of the same religion or the same**
16 **political party or who do not share the same ideological beliefs if to do so would**
17 **violate the organization's standards of conduct.**

18 §3399.34. Institutional policies on free ~~expression~~ **speech and First Amendment**
19 **protected expressive activities**

20 Each public postsecondary education institution shall develop policies,
21 regulations, and expectations of students regarding free ~~expression and association~~
22 **speech and First Amendment protected expressive activities** on campus that are
23 consistent with this Part and the policies of its management board. The policies shall
24 outline the rights of students, administrators, faculty, and staff and shall:

25 * * *

26 (4) **Include a statement that each institution shall strive to ensure the**
27 **fullest degree of protection for each student's political views and freedom of**
28 **association.**

29 (5) **Include a statement that every professor or instructor at the**
30 **institution shall be prohibited from imposing the professor's political views on**

1 students in violation of R.S. 17:3399.39.

2 (6) Include a statement that the institution is engaged in protecting its
 3 students from student-on-student discriminatory harassment pursuant to R.S.
 4 17:3399.32(F).

5 * * *

6 §3399.38. Conflict with other laws

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

11 B. Nothing in this Section shall be construed to limit or deny any
 12 protections or remedies available to a student pursuant to any other provision
 13 of law.

14 §3399.39. Right to individual dignity; each student's right to be free from
 15 discrimination on the basis of political ideas, affiliations, or
 16 ideology

17 A. Article I, Section 3 of the Constitution of Louisiana guarantees that
 18 each person, including a college or university student, has the right to
 19 "individual dignity" and further provides that protections are guaranteed
 20 against discrimination based upon the student's "political ideas or affiliations".

21 B. A public postsecondary education management board shall make
 22 reasonable efforts to protect students from discrimination on the basis of
 23 political ideas, affiliations, or ideology.

24 C. No professor or instructor who teaches a class to students at an
 25 institution of higher education shall impose the professor's or instructor's
 26 political views onto students and, therefore, shall be prohibited from doing any
 27 of the following:

28 (1) Requiring a student to attend a political protest or engage in any
 29 other political activity outside the classroom that aligns with the political views
 30 of the professor or instructor.

1 **(2) Requiring a student to participate in a certain political activity**
 2 **outside the classroom as a condition of obtaining the letter grade to which the**
 3 **student would otherwise be entitled based upon the student's actual academic**
 4 **performance in the class.**

5 **§3399.40. Due process requirements; right to an attorney**

6 **A public postsecondary education management board shall be prohibited**
 7 **from denying any student the right to have an attorney present at any**
 8 **disciplinary hearings to which the student is a party if the student desires to**
 9 **engage an attorney at the student's expense.**

10 **§3399.41. Remedies**

11 **A. The attorney general may obtain injunctive relief, protective order,**
 12 **writ of mandamus, or declaratory relief to prevent any violation of this Part.**
 13 **Should the attorney general prevail, the court shall award reasonable attorney**
 14 **fees and costs.**

15 **B. A student who is harmed in violation of this Part shall have a cause**
 16 **of action for remedies as provided for in this Subsection and may obtain**
 17 **appropriate relief, including but not limited to any of the following:**

18 **(1) Injunctive relief, protective order, writ of mandamus or a**
 19 **prohibition, or declaratory relief to prevent any violation of this Part. The**
 20 **court may waive the requirement that the student petitioner post bond to obtain**
 21 **injunctive relief for good cause shown.**

22 **(2) Actual damages.**

23 **(3) Recovery of reasonable attorney fees and costs.**

24 Section 2. The Louisiana State Law Institute, pursuant to its statutory authority, is
 25 hereby authorized and directed to make technical changes by changing the term "expressive
 26 activities" to "free speech and First Amendment protected expressive activities" contained
 27 in Part XIV of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, and
 28 comprised of R.S. 17:3399.31 through 3399.40.

29 Section 3. This Act shall become effective upon signature by the governor or, if not
 30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____