

2024 Regular Session

SENATE BILL NO. 294

BY SENATOR HODGES

STUDENTS. Confirms the protections of free speech and First Amendment protected activities on college and university campuses. (gov sig)

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, and 3399.40, relative to free speech and
6 First Amendment protected expressive activities on the campuses of public
7 postsecondary education institutions; to provide with respect to constitutionally
8 protected activities; to provide with respect to free speech; to provide with respect
9 to lawful assembly; to provide with respect to religious liberty; to provide with
10 respect to religious or faith-based student organizations; to provide with respect to
11 the election of officers, choice of leaders, or acceptance of members of a religious
12 and faith-based student organizations; to prohibit protections for activities conducted
13 by organizations that have been designated as a foreign terrorist organization by the
14 federal government; to prohibit protections for activities that are in violation of
15 criminal law; to provide with respect to the right of association; to provide with
16 respect to individual dignity; to prohibit discrimination on the basis of political ideas,
17 affiliations, or ideology; to provide with respect to due process; to provide for

1 definitions; to provide for exclusions; to provide for an effective date; and to provide
2 for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. The heading of Part XIV of Chapter 26 of Title 17 of the Louisiana
5 Revised Statutes of 1950, and R.S. 17:3399.31(1), (2), and (5), 3399.32(A), 3399.33, the
6 heading and introductory paragraph of R.S. 17:3399.34, and 3399.38 are hereby amended
7 and reenacted and R.S. 17:3399.34(4), (5), and (6), 3399.39, and 3399.40 are hereby enacted
8 to read as follows:

9 PART XIV. ~~CAMPUS FREE EXPRESSION~~ **SPEECH AND FIRST**
10 **AMENDMENT PROTECTED EXPRESSIVE ACTIVITIES ON CAMPUSES**

11 §3399.31. Definitions

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

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

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

25 (b) **Activities in which an individual or group is knowingly being**
26 **monetarily funded or organized by any individual, corporation, business, or**
27 **organization that has been designated as a foreign terrorist organization by the**
28 **United States Department of State, pursuant to 8 U.S. Code § 1189 and 15**
29 **C.F.R. 7.4.**

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

4 (2) "Material and substantial disruption" means when a person, with the
5 intent and knowledge of doing so, significantly hinders ~~expressive activity~~ free
6 speech and First Amendment protected expressive activities, prevents the
7 communication of the message, or prevents the transaction of the business of a
8 lawful meeting, gathering, or procession by either of the following:

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

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

15 * * *

16 (5) "Student-on-student discriminatory harassment" means unwelcome
17 conduct that targets ~~it's~~ a victim in violation of this Part on ~~the~~ any basis including
18 but not limited to the basis that the victim is a member of a class protected under
19 federal, state, or local law and that is so severe, pervasive, and objectively offensive
20 and so undermines and detracts from the victim's educational experience that the
21 victim is effectively denied equal access to an institution's resources and
22 opportunities.

23 * * *

24 §3399.32. ~~Expressive~~ Free speech and First Amendment protected expressive

25 activities; public postsecondary education institutions; protected

26 A. ~~Expressive~~ Free speech and First Amendment protected expressive

27 activities at public postsecondary education institutions by students, administrators,

28 faculty members, staff members, and invited guests are protected, pursuant to the

29 First Amendment of the Constitution of the United States of America and

1 Article I, Section 7 of the Constitution of Louisiana.

2 * * *

3 §3399.33. Freedom of association; religious liberty; faith-based student
4 organizations; political or ideological belief-based organizations

5 A. No public postsecondary education institution shall deny a political or
6 ideological belief-based organization or a religious or faith-based student
7 organization any benefit or privilege available to any other student organization, or
8 otherwise discriminate against a political or ideological belief-based organization
9 or a faith-based organization, based on the ~~expression~~ political, ideological, or
10 religious beliefs of the organization, ~~including any requirement that the,~~

11 B. No public postsecondary education institution shall engage in
12 discrimination on the basis of political, ideological, or religious beliefs against
13 any organization or the organization's leaders or members of the organization in
14 a manner that does any of the following:

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

17 (2) ~~Comply~~ Restricts compliance with the organization's standards of
18 conduct with respect to free speech and First Amendment protected expressive
19 activities.

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

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

27 §3399.34. Institutional policies on free ~~expression~~ speech and First Amendment
28 protected expressive activities

29 Each public postsecondary education institution shall develop policies,

1 regulations, and expectations of students regarding free ~~expression and association~~
 2 **speech and First Amendment protected expressive activities** on campus that are
 3 consistent with this Part and the policies of its management board. The policies shall
 4 outline the rights of students, administrators, faculty, and staff and shall:

5 * * *

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

9 **(5) Include a statement that every professor or instructor at the**
 10 **institution shall be prohibited from imposing the professor's political views on**
 11 **students in violation of R.S. 17:3399.39.**

12 **(6) Include a statement that the institution is engaged in protecting its**
 13 **students from student-on-student discriminatory harassment pursuant to R.S.**
 14 **17:3399.32(F).**

15 §3399.38. Conflict with other laws

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

20 **B. Nothing in this Section shall be construed to limit or deny any**
 21 **protections or remedies available to a student pursuant to any other provision**
 22 **of law.**

23 **§3399.39. Right to individual dignity; each student's right to be free from**
 24 **discrimination on the basis of political ideas, affiliations, or**
 25 **ideology**

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

1 **B. A public postsecondary education management board shall make**
2 **reasonable efforts to protect students from discrimination on the basis of**
3 **political ideas, affiliations, or ideology.**

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

8 **(1) Requiring a student to attend a political protest or engage in any**
9 **other political activity outside the classroom that aligns with the political views**
10 **of the professor or instructor.**

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

15 **§3399.40. Due process requirements; right to an attorney**

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

20 Section 2. The Louisiana State Law Institute, pursuant to its statutory authority, is
21 hereby authorized and directed to make technical changes by changing the term "expressive
22 activities" to "free speech and First Amendment protected expressive activities" contained
23 in Part XIV of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, and
24 comprised of R.S. 17:3399.31 through 3399.38.

25 Section 3. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 294 Engrossed 2024 Regular Session Hodges

Present law provides protections for free expression on public college and university campuses.

Proposed law retains present law but clarifies that free expression is the free speech and protected expressive activities guaranteed by the First Amendment of the U.S. Constitution and the La. Constitution.

Present law defines "expressive activities" as any lawful verbal or written means by which individuals or groups communicate ideas to one another, as provided by the First Amendment of the U.S. Constitution or the La. Constitution, including all forms of peaceful assembly, protest, distribution of literature, carrying signs, and circulating petitions. The definition of "expressive activities" excludes commercial activities.

Proposed law retains present law but changes the term from "expressive activities" to "free speech and First Amendment protected expressive activities".

Present law, as it relates to the protections for a student's free speech rights in present law, excludes commercial activities when individuals or groups are being compensated or attempting to advertise, market, or accrue financial gain to any individual, corporation, business, or organization.

Proposed law retains present law but also excludes the following:

- (1) Activities in which an individual or group is being monetarily funded or organized by any individual, corporation, business, or organization that has been designated as a foreign terrorist organization by the U.S. Dept. of State.
- (2) Any criminal activity which is prohibited by state law.

Present law defines "student-on-student discriminatory harassment" as unwelcome conduct that targets a victim on the basis of being a member of protected class under the law that is so severe, pervasive, and objectively offensive and so undermines and detracts from the victim's educational experience that the victim is effectively denied equal access to an institution's resources and opportunities.

Proposed law retains present law and expands protections from those students who are members of a protected class to all students.

Present law provides with respect to freedom of association and provides that a public college or university cannot deny a belief-based student organization any benefit or privilege available to any other student organization. Present law further provides that no college or university is to deny a belief-based student organization any benefit or privilege available to any other student organization, or otherwise discriminate against a belief-based organization, based on the expression of the organization, including any requirement that the leaders or members of the organization:

- (1) Affirm and adhere to the organization's sincerely held beliefs.
- (2) Comply with the organization's standards of conduct.
- (3) Further the organization's mission or purpose, as defined by the organization.

Proposed law retains present law but changes the term from "belief-based student organization" to "religious or faith-based student organization" and "political or ideological belief-based organization".

Proposed law retains present law and adds that no public college or university is allowed to engage in discrimination on the basis of religion, politics, or ideology against any organizations, officers, leaders or members of the organization in a manner that does any of the following:

- (1) Restricts the organization's sincerely held religious beliefs or restricts the political or ideological belief-based organization's beliefs.
- (2) Requires the organization accept officers, choose leaders, or accept members who are not members of the same religion if to do so would violate the organization's standards of conduct.

Present law provides that present law supersedes and controls to the extent of any conflict with any other provision of law and governs a college or university's obligation to address all forms of discriminatory harassment perpetrated by one student on another student, including sexual harassment.

Proposed law retains present law and clarifies that the protections or remedies available to a student pursuant to any other provision of law are still in effect.

Proposed law provides that each student is free from discrimination on the basis of political ideas, affiliations, or ideologies. Provides that the La. Constitution guarantees that each person, including a college or university student, has the right to individual dignity and further provides that protections are guaranteed against discrimination based upon the student's political ideas or affiliations. Provides that a public college or university management board make reasonable efforts to protect students from discrimination on the basis of political ideas, affiliations, or ideology.

Proposed law prohibits a professor or instructor from imposing the professor's or instructor's political views onto students. Prohibits the professor or instructor from doing any of the following:

- (1) Requiring a student to attend a political protest or engage in any other political activity outside the classroom that aligns with the political views of the professor or instructor.
- (2) Requiring a student to participate in a certain political activity outside the classroom as a condition of obtaining the letter grade to which the student would otherwise be entitled based upon the student's actual academic performance in the class.

Present law requires the colleges and universities to develop policies to enforce present law and to post those policies on the institution's website.

Proposed law retains present law but requires the colleges and universities to also post to the institution's website an advisory that the institution's policy is to be free from political duress to attend off-campus political activities.

Proposed law provides that a college or university is prohibited from denying any student the right to have an attorney present at any disciplinary hearings to which the student is a party if the student desires to engage an attorney at the student's expense.

Proposed law directs the La. State Law Institute to make technical changes.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3399.31(1), (2), and (5), 3399.32(A), 3399.33, 3399.34 (heading and intro para), and 3399.38; adds R.S. 17:3399.34(4),(5), and (6), 3399.39, and 3399.40)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Changes terminology.
2. Makes protection available to all students.
3. Protects the right of students to be free from political duress from professors.
4. Requires colleges and universities to develop policies and post on the internet that students are to be free from political duress to attend political activities outside the classroom.
5. Provides for student due process at disciplinary hearings.
6. Makes technical changes.