

House Bill 471

By: Representatives Brockway of the 102nd, Ehrhart of the 36th, Jasperse of the 11th, Teasley of the 37th, and Casas of the 107th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
2 relating to the board of regents and university system, so as to provide for the establishment
3 of free speech policies for institutions of the university system; to prohibit the mandatory
4 payment of certain student activity fees; to provide for a cause of action and remedies; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the
9 board of regents and university system, is amended by adding a new part to read as follows:

10 "Part 1D

11 20-3-48.

12 As used in this part, the term:

13 (1) 'Benefit' means recognition, registration, the use of facilities of an institution of the
14 university system, use of channels of communication, and funding sources that are
15 otherwise available to other student associations at that public institution of higher
16 education.

17 (2) 'Expression' means any lawful verbal or written means by which individuals
18 communicate ideas to one another, including all forms of peaceful assembly, protests,
19 speeches, distributing literature, carrying signs, and circulating petitions.

20 (3) 'Generally accessible' means those outdoor areas of a campus where members of a
21 university community are commonly allowed. Such term shall not include outdoor areas
22 where access is restricted to a majority of a university community.

23 (4) 'Harassment' shall mean only an expression that is so severe, pervasive, and
24 objectively offensive that it unreasonably interferes with an individual's access to an
25 educational opportunity or benefit.

26 (5) 'Public institution of higher education' means any institution of the university system.

27 (6) 'Student' means any person who is enrolled on a full-time or part-time basis in a
28 public institution of higher education.

29 (7) 'Student activity fee' means any fee charged to students by a public institution of
30 higher education, the proceeds of which are used to support and facilitate the expression
31 and activities of students or student organizations.

32 (8) 'University community' means students, faculty, and staff at a public institution of
33 higher education and their invited guests.

34 20-3-48.1.

35 (a) No public institution of higher education shall limit or restrict a student's expression
36 or subject a student to disciplinary action due to his or her expression because of its
37 viewpoint or because of the reaction to or opposition to such expression by listeners or
38 observers.

39 (b) The generally accessible outdoor areas of campuses of public institutions of higher
40 education in this state shall be deemed traditional public forums for expression by members
41 of the university community. Any member of the university community who wishes to
42 engage in expressive activity shall be permitted to do so, subject to any regulations
43 otherwise permissible under this Code section.

44 (c) Public institutions of higher education may maintain and enforce reasonable time,
45 place, and manner restrictions in service of a significant institutional interest only when
46 such restrictions employ clear, objective, published, nonideological, and content-neutral
47 and viewpoint-neutral criteria and provide for ample alternative means of expression. Any
48 such restrictions shall allow for members of a university community to assemble
49 spontaneously and contemporaneously for expressive purposes.

50 (d) Nothing in this Code section shall be interpreted as preventing public institutions of
51 higher education from prohibiting harassment or from prohibiting, limiting, or restricting
52 expression that the First Amendment of the United States Constitution does not protect.

53 (e) Nothing in this Code section shall be interpreted as restricting free expression by others
54 or elsewhere on campus.

55 (f) No public institution of higher education shall maintain or publish any policy that
56 purports to restrict expression that conflicts with the provisions of this Code section.

57 20-3-48.2.

58 No public institution of higher education shall deny a student organization any benefit or
59 privilege available to any other student organization or otherwise discriminate against a
60 student organization based on the expression of the organization, including any
61 requirement that the leaders or members of such organization:

62 (1) Adhere to the organization's sincerely held beliefs;

63 (2) Comply with the organization's standards of conduct; or

64 (3) Further the organization's mission or purpose, as defined by the student organization.

65 20-3-48.3.

66 (a) No public institution of higher education in this state shall require any student to pay
67 any student activity fee as a condition of matriculation.

68 (b) Nothing in this Code section shall prevent:

69 (1) The collection of a fee for the support of common buildings and rooms, student
70 centers, theaters, pools, and other facilities of common use to all students or of the
71 meetings and official responsibilities of student government; or

72 (2) A public institution of higher education from itemizing a student activity fee and
73 inviting students to pay this voluntary additional fee for the support of student
74 organizations and activities; provided, however, that unless a student knowingly and
75 voluntarily chooses to pay this fee, it shall not be collected.

76 (c) A public institution of higher education in this state must ensure that any student
77 activity fee it collects is disseminated to student organizations in a viewpoint-neutral and
78 content-neutral fashion. At a minimum, an institution shall:

79 (1) Publish clear, objective, nonideological, content-neutral and viewpoint-neutral, and
80 exhaustive standards that decision makers must follow when allocating student activity
81 fees;

82 (2) Record all meetings pertaining to allocations of student activity fees;

83 (3) Provide for the disqualification of any decision makers who have previously failed
84 to make content-neutral and viewpoint-neutral decisions regarding the allocation of
85 student activity fees;

86 (4) Identify in writing the specific reasons that a request for funding has been denied or
87 reduced from the amount requested; and

88 (5) Provide for an appeal to a neutral decision maker for any student or student
89 organization whose funding request has been denied or reduced.

90 20-3-48.4.

91 Any student or student association aggrieved by a violation of this part may bring a cause
92 of action against the public institution of higher education and any other persons
93 responsible for the violation and seek appropriate relief, including, but not limited to,
94 injunctive relief, monetary damages, reasonable attorneys' fees, and court costs. Any
95 student or student association aggrieved by a violation of this part may assert such violation
96 as a defense or counterclaim in any disciplinary action or in any civil or administrative
97 proceedings brought against a student or student organization. Nothing in this Code
98 section shall be interpreted to limit any other remedies available to any student or student
99 organization."

100

SECTION 2.

101 All laws and parts of laws in conflict with this Act are repealed.