

Senate Bill 339

By: Senators Ligon, Jr. of the 3rd, Shafer of the 48th, McKoon of the 29th, Tippins of the 37th, Miller of the 49th and others

AS PASSED SENATE

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 require the board of regents
3 to develop a policy providing for free speech to be implemented at all institutions of the
4 university system; to provide requirements for such policy; to provide for reports and the
5 content of reports; to provide for disciplinary measures; to provide for regulations; to provide
6 for exceptions; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

12 "Part 1D

13 20-3-48.

14 The board of regents shall develop and adopt a policy or policies relevant to free expression
15 that contains, at least, the following concepts:

16 (1) That the board of regents will honor the First Amendment of the United States
17 Constitution and Paragraph V of Section I, Article I from Georgia's Bill of Rights
18 ensuring that state colleges and universities do not allow policies or practices that curtail
19 or restrain the freedom of speech or of the press and will ensure that all persons shall be
20 held responsible for any abuse of these liberties;

21 (2) That the primary function of an institution of higher education is the discovery,
22 improvement, transmission, and dissemination of knowledge by means of research,
23 teaching, discussion, and debate. This statement shall provide that, to fulfill this function,

24 the institution must strive to ensure the fullest degree of intellectual freedom and free
25 expression;

26 (3) That it is not the proper role of the institution to shield individuals from speech
27 protected by the First Amendment of the United State Constitution, including, without
28 limitation, ideas and opinions which they find unwelcome, disagreeable, or even deeply
29 offensive;

30 (4) That students and faculty have the freedom to discuss any problem that presents
31 itself, as the First Amendment permits and within the limits of reasonable viewpoint
32 neutral and content neutral restrictions on time, place, and manner of expression
33 established by each institution and that are consistent with this part; provided, however,
34 that these restrictions are clear, published, and reasonable pursuant to First Amendment
35 jurisprudence. Students and faculty shall be permitted to assemble and engage in
36 spontaneous expressive activity, as long as such activity is not unlawful and does not
37 materially or substantially disrupt the functioning of the institution, and is not contrary
38 to the institution's time, place, and manner restrictions, subject to the requirements of this
39 paragraph;

40 (5) That any student or his or her invitee lawfully present on campus may protest or
41 demonstrate there consistent with any time, place and manner policies at such campus,
42 provided that protests and demonstrations that materially and substantially interfere with
43 the ability of others to engage in or listen to previously scheduled or reserved activities
44 on campus occurring at the same time shall not be permitted and shall be subject to
45 sanction pursuant to the institution's time, place and manner policy. This policy does not
46 prohibit professors or other instructors from maintaining order in the classroom;

47 (6) That a range of disciplinary sanctions shall be established for anyone under the
48 jurisdiction of the institution who materially and substantially interferes with the free
49 expression of others;

50 (7) That the campuses of the institution are open to any speaker whom students, student
51 groups, or members of the faculty have invited so long as any such speaker complies with
52 any applicable campus policies to reserve the time, place, and manner for such invited
53 expression;

54 (8) That the institution shall make reasonable efforts and make available reasonable
55 resources to ensure the safety of invited speakers. An institution shall not charge a
56 security fee based on the content of the inviter's speech or the content of the speech of the
57 invited speakers and may restrict the use of its nonpublic facilities to invited individuals.
58 A security fee may be charged based upon the location utilized by the invited speaker
59 pursuant to campus policies;

60 (9) That no institution may deny a student organization any benefit or privilege available
 61 to other campus student organizations, or otherwise discriminate against a religious
 62 student organization based on the content of that organization's expression,
 63 notwithstanding any requirement that the leaders of such organization:
 64 (A) Affirm and adhere to the organization's sincerely held beliefs;
 65 (B) Comply with the organization's standards of conduct; or
 66 (C) Further the organization's mission or purpose, as defined by the student
 67 organization.

68 20-3-48.1.

69 The board of regents shall report to the public, the Governor, and the General Assembly
 70 on September 1 of every year. The report may include descriptions of the following:
 71 (1) Any barriers to or disruptions of free expression within state institutions of higher
 72 education;
 73 (2) Administrative handling and discipline relating to these disruptions or barriers;
 74 (3) Substantial difficulties, controversies, or successes in maintaining a posture of
 75 administrative and institutional neutrality with regard to political or social issues; and
 76 (4) Any assessments, criticisms, commendations, or recommendations the board of
 77 regents sees fit to include.

78 20-3-48.2.

79 (a) The board of regents is authorized to adopt regulations to further the purposes of the
 80 policies adopted pursuant to this part. Nothing in this part shall be construed to prevent
 81 institutions from regulating student speech or activity that is prohibited by law.
 82 (b) Except as further limited by this part, institutions shall be allowed to restrict student
 83 expression only for expressive activity not protected by the First Amendment and shall be
 84 able to require reasonable time, place, and manner restrictions on expressive activities
 85 consistent with paragraph (4) of Code Section 20-3-48."

86 **SECTION 2.**

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