

115TH CONGRESS
2D SESSION

H. R. 7229

To amend the Higher Education Act of 1965 to protect student rights,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 10, 2018

Mr. BRAT (for himself, Mr. BUDD, Mr. MEADOWS, Mr. GAETZ, Mr. GOSAR,
Mr. LAMBORN, Mr. GLANFORTE, and Mr. NORMAN) introduced the fol-
lowing bill; which was referred to the Committee on Education and the
Workforce

A BILL

To amend the Higher Education Act of 1965 to protect
student rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Student Rights Act
5 of 2018”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Freedom of speech is a fundamental natural
9 right.

1 (2) Freedom of assembly and freedom of asso-
2 ciation are a necessary part of such freedom of
3 speech.

4 (3) The First Amendment of the Constitution
5 of the United States, ratified on December 15,
6 1791, protects freedom of speech for Americans.

7 (4) Freedom of inquiry, impossible without the
8 freedom of speech, should be a first principle
9 amongst American public institutions of higher edu-
10 cation to promote civic deliberation, the discourse of
11 ideas, and the search for truth.

12 (5) Freedom of speech has been abridged at
13 many public institutions of higher education.

14 (6) It is necessary to clarify the rights of stu-
15 dents to assemble, associate, speak, and think freely.

16 (7) It is necessary to notify students at public
17 institutions of higher education of their rights under
18 the First Amendment of the Constitution of the
19 United States and ensure a fair judicial process for
20 such students to challenge violations of their rights.

21 **SEC. 3. RIGHT TO FREE SPEECH IN OUTDOOR AREAS.**

22 Title IV of the Higher Education Act of 1965 (20
23 U.S.C. 1070 et seq.) is amended—

24 (1) in section 487(a), by adding at the end the
25 following:

1 “(30) In the case of a public institution, the in-
2 stitution will comply with the expressive activity pro-
3 tections described in section 493E.”; and

4 (2) in part G, by adding at the end the fol-
5 lowing:

6 **“SEC. 493E. CAMPUS INDIVIDUAL RIGHTS.**

7 “(a) DEFINITION OF EXPRESSIVE ACTIVITIES.—

8 “(1) IN GENERAL.—In this section, the term
9 ‘expressive activity’ includes—

10 “(A) peacefully assembling, protesting, or
11 speaking;

12 “(B) distributing literature;

13 “(C) carrying a sign; or

14 “(D) circulating a petition.

15 “(2) EXCLUSIONS.—In this section, the term
16 ‘expressive activity’ does not include violence, har-
17 assment, or obscenity (as defined by applicable stat-
18 utory law in accordance with the precedents of the
19 Supreme Court of the United States).

20 “(b) EXPRESSIVE ACTIVITIES AT AN INSTITUTION.—

21 “(1) IN GENERAL.—Each public institution of
22 higher education participating in a program under
23 this title may not prohibit, subject to paragraph (2),
24 a student from freely engaging in noncommercial ex-

1 pressive activity in an outdoor area on the institu-
2 tion’s campus if the student’s conduct is lawful.

3 “(2) RESTRICTIONS.—An institution of higher
4 education described in paragraph (1) may maintain
5 and enforce reasonable time, place, or manner re-
6 strictions on an expressive activity in an outdoor
7 area of the institution’s campus, if the restriction—

8 “(A) is narrowly tailored to serve a signifi-
9 cant institutional interest;

10 “(B) is based on previously published, con-
11 tent-neutral, and viewpoint-neutral criteria; and

12 “(C) leaves open ample alternative chan-
13 nels for communication.

14 “(3) APPLICATION.—The protections provided
15 under paragraph (1) do not apply to expressive ac-
16 tivity in an area on an institution’s campus that is
17 not an outdoor area.

18 “(c) CAUSES OF ACTION.—

19 “(1) AUTHORIZATION.—The following persons
20 may bring an action in a Federal court of competent
21 jurisdiction to enjoin a violation of this section or
22 any of paragraphs (31) through (34) of section
23 487(a), or to recover compensatory damages, reason-
24 able court costs, or reasonable attorney fees:

25 “(A) The Attorney General.

1 “(B) A person claiming that the person’s
2 expressive activity rights, as described in sub-
3 section (b)(1), were violated.

4 “(2) ACTIONS.—In an action brought under
5 this subsection, if the court finds a violation of this
6 section, the court—

7 “(A) shall—

8 “(i) enjoin the violation; and

9 “(ii) if a person whose expressive ac-
10 tivity rights were violated brought the ac-
11 tion, award the person—

12 “(I) not less than \$1,000 for an
13 initial violation; and

14 “(II) if the person notifies the in-
15 stitution of the violation, \$100 for
16 each day the violation continues after
17 the notification if the institution did
18 not act to discontinue the cause of the
19 violation; and

20 “(B) may award a prevailing plaintiff—

21 “(i) compensatory damages;

22 “(ii) reasonable court costs; or

23 “(iii) reasonable attorney fees.

24 “(d) STATUTE OF LIMITATIONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3), an action under this section may not be
3 brought later than 1 year after the date on which
4 the cause of action accrues.

5 “(2) CONTINUING VIOLATION.—Each day that
6 a violation of this section continues after an initial
7 violation of this section, and each day that an insti-
8 tution’s policy in violation of this section remains in
9 effect, shall constitute a continuing violation of this
10 section.

11 “(3) EXTENSION.—For a continuing violation
12 described in paragraph (2), the limitation described
13 in paragraph (1) shall extend to 1 year after the
14 date on which the most recent violation occurs.”.

15 **SEC. 4. FREEDOM OF ASSOCIATION.**

16 Section 487(a) of the Higher Education Act of 1965
17 (20 U.S.C. 1094(a)), as amended by section 3, is further
18 amended by adding at the end the following:

19 “(31) In the case of a public institution, the in-
20 stitution will allow a religious or political student or-
21 ganization to determine that ordering the organiza-
22 tion’s internal affairs, selecting the organization’s
23 leaders and members, defining the organization’s
24 doctrines, and resolving the organization’s disputes
25 are in furtherance of the organization’s religious or

1 political mission and that only persons committed to
2 that mission should conduct such activities.

3 “(32) In the case of a public institution that
4 has granted recognition and access to any student
5 organization or group, the institution shall not dis-
6 criminate against any such student organization or
7 group that exercises its rights under this Act.”.

8 **SEC. 5. RIGHT FOR STUDENTS GROUPS TO INVITE SPEAK-**
9 **ERS.**

10 Section 487(a) of the Higher Education Act of 1965
11 (20 U.S.C. 1094(a)), as amended by sections 3 and 4, is
12 further amended by adding at the end the following:

13 “(33) In the case of a public institution, the in-
14 stitution will not abridge the freedom of any indi-
15 vidual, including enrolled students, faculty, other
16 employees, and the invited guests of any such indi-
17 viduals, to speak on campus, except that the institu-
18 tion may restrict the use of its nonpublic facilities by
19 invited guests.

20 “(34) In the case of a public institution, the in-
21 stitution—

22 “(A) will make all reasonable efforts and
23 will make available all reasonable resources to
24 ensure the safety of invited speakers; and

1 “(B) will not charge security fees based
2 on—

3 “(i) the content of the speech of an
4 individual or organization that invites a
5 speaker; or

6 “(ii) the content of the speech of an
7 invited speaker.”.

8 **SEC. 6. DISCLOSURE OF FREEDOM OF SPEECH ON CAMPUS**
9 **POLICIES.**

10 Section 487(a) of the Higher Education Act of 1965
11 (20 U.S.C. 1094(a)), as amended by sections 3 through
12 5, is further amended by adding at the end the following:

13 “(35) In the case of a public institution, the in-
14 stitution will—

15 “(A) develop a written policy guaranteeing
16 free speech, assembly, and association on cam-
17 pus in a manner that is consistent with the
18 First Amendment, including the policy of the
19 institution with respect to—

20 “(i) invitations by students to speak-
21 ers to speak at such institution; and

22 “(ii) student and faculty rights to
23 free-speech, rights of association, and
24 rights to publish;

1 “(B) include in a statement that it is not
2 the proper role of an institution to deprive indi-
3 viduals from speech protected by the First
4 Amendment of the Constitution of the United
5 States, including ideas and opinions they find
6 unwelcome, disagreeable, or offensive;

7 “(C) if the institution is sued for an al-
8 leged violation of a right guaranteed by the
9 First Amendment, submit a report with a copy
10 of the complaint to—

11 “(i) the Secretary;

12 “(ii) the Committees on Education
13 and the Workforce and Oversight and Gov-
14 ernment Reform of the House of Rep-
15 resentatives; and

16 “(iii) the Committees on Health, Edu-
17 cation, Labor, and Pensions and Homeland
18 Security and Government Affairs of the
19 Senate;

20 “(D) notify students of the information de-
21 scribed in subparagraphs (A), (B), and (C) an-
22 nually by mail or email and at freshman ori-
23 entation classes or seminars, if such seminars
24 are offered; and

1 “(E) publish the information described in
2 subparagraphs (A), (B), and (C) on a publicly
3 accessible website of the institution.”.

4 **SEC. 7. APPLICABILITY TO CERTAIN INSTITUTIONS.**

5 Nothing in this Act or the amendments made by this
6 Act shall apply to a student or a student organization at
7 a public institution of higher education the primary mis-
8 sion of which is to prepare individuals for service in the
9 Armed Forces or the merchant marine.

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