

HOUSE BILL NO. 4436

April 09, 2019, Introduced by Reps. Reilly, Hoitenga, Steven Johnson, Miller, Meerman, Paquette, Markkanen, Hornberger, LaFave, Eisen and Mueller and referred to the Committee on Oversight.

A bill to promote and safeguard the right of free speech and assembly on the campuses of public universities and community and junior colleges; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. This act shall be known and may be cited as the
2 "college campus intellectual and expressive freedom act".
3 Sec. 2. As used in this act:
4 (a) "Expressive activity" includes, but is not limited to, all



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1 peaceful forms of assembly, protest, speech, distributing
2 literature, carrying signs, and circulating petitions in open
3 areas, and filming and broadcasting on the internet, by any number
4 of individuals and whether planned or spontaneous.

5 (b) "Public institution of higher education" or "institution"
6 means a public community or junior college established under
7 section 7 of article VIII of the state constitution of 1963 or part
8 25 of the revised school code, 1976 PA 451, MCL 380.1601 to
9 380.1607, or a state university described in section 4, 5, or 6 of
10 article VIII of the state constitution of 1963.

11 (c) "Student organization" means any student group officially
12 recognized by, or seeking official recognition from, a public
13 institution of higher education that receives or seeks to receive
14 benefits from the institution.

15 Sec. 3. A public institution of higher education shall do all
16 of the following:

17 (a) Develop and adopt a policy on free expression that
18 contains at least the following:

19 (i) A statement that an essential part of the institution's
20 mission is the discovery, improvement, transmission, and
21 dissemination of knowledge by means of research, teaching,
22 discussion, and debate and that, to fulfill this function, the
23 institution will strive to ensure the fullest degree of
24 intellectual freedom and free expression.

25 (ii) A statement assuring that students and faculty are free to
26 discuss anything, as the First Amendment of the Constitution of the
27 United States permits and within the limits of reasonable
28 viewpoint- and content-neutral restrictions on time, place, and
29 manner of expression. For purposes of this subparagraph and



1 subparagraph (iii), a viewpoint- and content-neutral restriction of
2 expression is reasonable only if it is consistent with this
3 section, is in furtherance of a significant institutional interest,
4 is clearly written and published, and provides ample alternative
5 means of expression.

6 (iii) A statement assuring that students and faculty are
7 permitted to assemble and engage in expressive activity as long as
8 the activity is not unlawful and does not materially and
9 substantially disrupt the functioning of the institution, as the
10 First Amendment of the Constitution of the United States permits
11 and within the limits of reasonable viewpoint- and content-neutral
12 restrictions on time, place, and manner of expression.

13 (iv) A statement assuring any person lawfully present on campus
14 the right to protest or demonstrate there but making clear that
15 protests and demonstrations that substantially and materially
16 infringe upon the rights of others to engage in or listen to
17 expressive activity are not permitted and are subject to sanction.
18 A statement that complies with this subparagraph does not prohibit
19 professors or other instructors from maintaining order in the
20 classroom.

21 (v) A statement assuring that the institution's campuses are
22 open to any speaker whom students, student groups, or members of
23 the faculty have invited.

24 (vi) A statement assuring that the public areas of campuses of
25 the institution are traditional public forums, open on the same
26 terms to any speaker.

27 (vii) A statement assuring that belief-based student
28 organizations will not be denied any benefits or privileges
29 available to other student organizations and that a belief-based



1 organization will not be discriminated against based on the
2 expressive activity of the organization or based on any requirement
3 that leaders or members of the organization affirm and adhere to
4 the organization's sincerely held beliefs, comply with the
5 organization's standards of conduct, or further the organization's
6 mission or purpose.

7 (viii) A statement assuring that the institution will strive to
8 remain neutral, as an institution, on the public policy
9 controversies of the day, except those that affect the function of
10 the institution or the rights and welfare of members of its
11 community, and will not take any action, as an institution, on the
12 public policy controversies of the day that would require students
13 or faculty to publicly express a given view of social policy.

14 (ix) A statement assuring that the policy on free expression
15 adopted under this subdivision supersedes all prior provisions of
16 institutional policy or regulation to the extent that those prior
17 provisions are inconsistent with the policy on free expression
18 adopted under this subdivision and that the institution will remove
19 or revise any inconsistent prior provision of policy or regulation
20 to ensure compatibility of its policies and regulations with the
21 policy on free expression adopted under this subdivision.

22 (b) Include in freshman orientation programs, handbooks, and
23 websites information for students describing the policies and
24 regulations regarding free expression consistent with this section.

25 (c) Develop materials, programs, and procedures to ensure that
26 all individuals who have responsibility for discipline or education
27 of students, including, but not limited to, administrators, campus
28 police officers, residence life officials, and professors,
29 understand the policies, regulations, and duties of the public



1 institution of higher education regarding free expression on campus
2 consistent with this act.

3 Sec. 4. This act does not prevent a public institution of
4 higher education from prohibiting, limiting, or otherwise
5 restricting expressive activity in a manner permitted by the First
6 Amendment of the Constitution of the United States and sections 3
7 and 5 of article I of the state constitution of 1963.

