

2017 Regular Session

HOUSE BILL NO. 269

BY REPRESENTATIVE LANCE HARRIS

1 AN ACT

2 To enact Part XIV of Chapter 26 of Title 17 of the Louisiana Revised Statutes of 1950, to  
3 be comprised of R.S. 17:3399.31 through 3399.35, relative to free expression on  
4 college campuses; to provide for the authority of the management boards of public  
5 postsecondary education institutions; to provide for the adoption of a policy on free  
6 expression; to provide for the authority of the Board of Regents; to provide for the  
7 creation and duties of a committee on free expression; to provide relative to  
8 freshman orientation programs; to provide for the adoption of regulations; to provide  
9 for the adoption of restrictions on expressive conduct; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part XIV of Chapter 26 of Title 17 of the Louisiana Revised Statutes of  
13 1950, comprised of R.S. 17:3399.31 through 3399.35, is hereby enacted to read as follows:

14 PART XIV. CAMPUS FREE EXPRESSION

15 §3399.31. Policy on free expression

16 The Board of Supervisors of Louisiana State University and Agricultural and  
17 Mechanical College, the Board of Supervisors of Southern University and  
18 Agricultural and Mechanical College, the Board of Supervisors for the University of  
19 Louisiana System, and the Board of Supervisors of Community and Technical  
20 Colleges, hereafter in this Part collectively referred to as the "management boards",

1           shall develop and adopt policies on free expression that contains at least the  
2           following:

3                   (1) A statement that the primary function of an institution of postsecondary  
4                   education is the discovery, improvement, transmission, and dissemination of  
5                   knowledge by means of research, teaching, discussion, and debate. This statement  
6                   shall provide that, to fulfill this function, each institution must strive to ensure the  
7                   fullest degree of intellectual freedom and free expression.

8                   (2) A statement that it is not the proper role of an institution to shield  
9                   individuals from speech protected by the First Amendment of the Constitution of the  
10                  United States of America and Article I, Section 7 of the Constitution of Louisiana,  
11                  including without limitation ideas and opinions they find unwelcome, disagreeable,  
12                  or even deeply offensive.

13                  (3) A provision that students and faculty have the freedom to discuss any  
14                  topic that presents itself, as the First Amendment of the Constitution of the United  
15                  States of America and Article I, Section 7 of the Constitution of Louisiana permit  
16                  and within the limits on time, place, and manner of expression that are consistent  
17                  with this Part and that are necessary to achieve a significant institutional interest;  
18                  such restrictions shall be published and provide ample alternative means of  
19                  expression. Students and faculty shall be permitted to assemble and engage in  
20                  spontaneous expressive activity as long as such activity is not unlawful and does not  
21                  materially and substantially disrupt the functioning of the institution, subject to the  
22                  requirements of this Part.

23                  (4) A provision that any person lawfully present on a campus may protest or  
24                  demonstrate there. Protests and demonstrations that infringe upon the constitutional  
25                  rights of others to engage in or listen to expressive activity by creating a substantial  
26                  and material disruption to the functioning of the institution or to someone's  
27                  expressive activity shall not be permitted and shall be subject to sanction. Professors  
28                  or other instructors shall not be prohibited from maintaining order in the classroom.  
29                  An institution shall not be prohibited from maintaining order on a campus or

1 restricting the time and location of a protest or demonstration so that the protest or  
 2 demonstration does not interfere with regularly scheduled campus events.

3 (5) A provision that the campuses of each institution are open to any speaker  
 4 whom students, student groups, or members of faculty have invited.

5 (6) A provision that the public areas of campuses of each institution are  
 6 traditional public forums, open on the same terms to any speaker.

7 (7) A range of disciplinary sanctions for anyone under the jurisdiction of an  
 8 institution who substantially and materially disrupts the functioning of the institution  
 9 or the free expression of others.

10 (8) A provision that in all disciplinary cases involving expressive conduct  
 11 students are entitled to a disciplinary hearing in accordance with published  
 12 procedures which shall include at least:

13 (a) The right to receive written notice of charges in advance.

14 (b) The right to review the evidence in support of the charges.

15 (c) The right to confront witnesses against them.

16 (d) The right to present a defense.

17 (e) The right to call witnesses.

18 (f) A decision by an impartial arbiter or panel.

19 (g) The right of appeal.

20 (9) A provision that the policy supersedes and nullifies any provision in the  
 21 policies and regulations of any institution that restrict speech on campus and that any  
 22 such provision is therefore inconsistent with this statement on free expression. Each  
 23 institution shall remove or revise any such provision in its policies and regulations  
 24 to ensure compatibility with the statement on free expression.

25 §3399.32. Committee on free expression

26 The Board of Regents shall create a committee on free expression consisting  
 27 of no less than fifteen members. The committee shall report to the public, the  
 28 management boards, the governor, and the legislature on September first of every  
 29 year. The report shall include:

1           (1) A description of any barriers to or disruptions of free expression within  
2           state institutions of postsecondary education.

3           (2) A description of the administrative handling and discipline relating to  
4           these disruptions or barriers.

5           (3) A description of substantial difficulties, controversies, or successes in  
6           maintaining a posture of administrative and institutional neutrality with regard to  
7           political or social issues.

8           (4) Any assessments, criticisms, commendations, or recommendations that  
9           the committee determines necessary, including but not limited to deficiencies and  
10           inconsistencies among the institutions' application of the policies and procedures  
11           developed pursuant to this Part.

12           §3399.33. Regulations

13           The management boards may adopt regulations to further the purposes of the  
14           policies adopted pursuant to this Part. Nothing in this Part shall be construed to  
15           prevent institutions from regulating student speech or activity that is prohibited by  
16           law. Except as further limited by this Part, institutions may restrict student  
17           expression only for expressive activity not protected by the First Amendment of the  
18           Constitution of the United States of America and Article I, Section 7 of the  
19           Constitution of Louisiana, including:

20                   (1) Violations of state or federal law.

21                   (2) Expression that a court has deemed unprotected defamation.

22                   (3) Harassment, including but not limited to:

23                   (a) Conduct directed by a student toward another individual student, on the  
24                   basis of that student's membership or perceived membership in a protected class, that  
25                   is so severe, pervasive, and objectively offensive that it effectively deprives the  
26                   victim of access to the educational opportunities or benefits provided by the  
27                   university.

28                   (b) Explicitly or implicitly conditioning a student's participation in an  
29                   education program or activity or basing an educational decision on the student's

1 submission to unwelcome sexual advances, requests for sexual favors, or other  
2 verbal, nonverbal, or physical conduct of a sexual nature.

3 (4) Statements meant by the speaker to communicate a serious expression  
4 of an intent to commit an act of unlawful violence against a particular individual or  
5 group of individuals.

6 (5) An unjustifiable invasion of privacy or confidentiality not involving a  
7 matter of public concern.

8 (6) An action that unlawfully and substantially disrupts the function of the  
9 university.

10 (7) Violations of reasonable time, place, and manner restrictions on  
11 expressive activities consistent with R.S. 17:3399.31, including restrictions on  
12 protests and demonstrations necessary to prevent any interference with regularly  
13 scheduled campus events.

14 §3399.34. Freshman orientation programs

15 State institutions of postsecondary education shall include in freshman  
16 orientation programs a section describing to all students the policies and regulations  
17 pursuant to this Part regarding free expression.

18 §3399.35. Restrictions on expressive conduct

19 A state institution of postsecondary education may restrict expressive conduct  
20 in the public areas of campus only if the restriction:

21 (1) Is necessary to achieve a significant governmental interest.

22 (2) Is the least restrictive means of furthering that significant governmental  
23 interest.

24 (3) Leaves open ample other opportunities to engage in the expressive  
25 conduct.

26 (4) Provides for spontaneous assembly and distribution of literature.

27 (5) Is necessary to prevent any interference by a protest or demonstration  
28 with regularly scheduled campus events.

1           Section 2. The cause of action provided for in Section 1 of this Act shall be available  
2 for one year following the effective date of this Act for any cause of action that arose within  
3 one year preceding the effective date of this Act.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_