

SENATE BILL NO. 364

BY SENATORS WARD, ALARIO, BOUDREAUX, CARTER, CLAITOR, CORTEZ,  
DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LONG,  
LUNEAU, MARTINY, MILKOVICH, MILLS, MIZELL, PEACOCK,  
PERRY, GARY SMITH, JOHN SMITH, THOMPSON, WALSWORTH  
AND WHITE

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 3399.37, 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 policies on free  
6 expression; to provide for definitions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part XIV of Chapter 26 of Title 17 of the Louisiana Revised Statutes of  
9 1950, comprised of R.S. 17:3399.31 through 3399.37, is hereby enacted to read as follows:

10 **PART XIV. CAMPUS FREE EXPRESSION**

11 **§3399.31. Definitions**

12 **For the purposes of this Part, the following words, terms, and phrases**  
13 **shall have the following meanings, unless the context clearly requires otherwise:**

14 **(1) "Expressive activities" include but are not limited to any lawful**  
15 **verbal or written means by which individuals or groups communicate ideas to**  
16 **one another, as provided by the First Amendment of the Constitution of the**  
17 **United States of America and by the Constitution of Louisiana, including all**  
18 **forms of peaceful assembly, protest, speech, distribution of literature, carrying**

1 signs, and circulating petitions. This expressly excludes commercial activities  
2 where individuals or groups are being compensated or attempting to advertise,  
3 market, or accrue financial gain to any individual, corporation, business, or  
4 organization.

5 (2) "Outdoor areas" are outside areas generally accessible to the  
6 majority of students, administrators, faculty, and staff, such as grassy areas,  
7 walkways, or other similar common areas, and do not include areas where  
8 access is restricted.

9 (3) "Student organization" means an officially recognized group at a  
10 public postsecondary education institution, or a group seeking official  
11 recognition, comprised of admitted students.

12 §3399.32. Expressive activities; public postsecondary education institutions;  
13 protected

14 A. Expressive activities at public postsecondary education institutions by  
15 students, administrators, faculty members, staff members, and invited guests  
16 are protected.

17 B. Any person who wishes to engage in noncommercial expressive  
18 activity on the campus of a public postsecondary education institution shall be  
19 permitted to do so freely, as long as the person's conduct is not unlawful and  
20 does not materially and substantially disrupt the functioning of the institution.

21 C. The outdoor areas of a public postsecondary education institution  
22 shall be deemed traditional public forums and open to expressive activities.  
23 Nothing in this Part shall be interpreted as limiting the right of student  
24 expression elsewhere on campus.

25 D. A public postsecondary education institution may maintain and  
26 enforce reasonable time, place, and manner restrictions narrowly tailored in  
27 service of a significant institutional interest only when such restrictions employ  
28 clear, published, and content- and viewpoint-neutral criteria and provide for  
29 ample alternative means of expression. Any such restrictions shall allow for  
30 spontaneous and contemporaneous assembly and distribution of literature.

1           E. Nothing in this Part shall be interpreted as preventing institutions  
 2           from prohibiting, limiting, or restricting expression that the First Amendment  
 3           of the Constitution of the United States of America does not protect, such as  
 4           threats and expressions directed to provoke and likely to produce imminent  
 5           lawless actions, or from prohibiting harassment.

6           §3399.33. Freedom of association; student organizations

7           No public postsecondary education institution shall deny a belief-based  
 8           student organization any benefit or privilege available to any other student  
 9           organization, or otherwise discriminate against a belief-based organization,  
 10          based on the expression of the organization, including any requirement that the  
 11          leaders or members of the organization:

12           (1) Affirm and adhere to the organization's sincerely held beliefs.

13           (2) Comply with the organization's standards of conduct.

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

16          §3399.34. Institutional policies on free expression

17          Each public postsecondary education institution shall develop policies,  
 18          regulations, and expectations of students regarding free expression and  
 19          association on campus that are consistent with this Part and the policies of its  
 20          management board. The policies shall outline the rights of students,  
 21          administrators, faculty, and staff and shall:

22           (1) Be made public in the institution's handbook, on its website, and  
 23          through student orientation programs.

24           (2) Be incorporated in the materials, programs, and procedures provided  
 25          to all employees and students.

26           (3) Provide information regarding the procedures whereby a person  
 27          aggrieved by a violation of this Part or the institution's policies on free  
 28          expression may seek relief.

29          §3399.35. Management boards; policy on free expression

30          Each public postsecondary education management board, in

1 collaboration with the Board of Regents, shall develop and adopt policies on free  
2 expression that contain at least the following:

3 (1) A statement that each institution shall strive to ensure the fullest  
4 degree of intellectual freedom and free expression.

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

10 (3) A provision that students and faculty have the freedom to discuss any  
11 topic that presents itself, as provided under the First Amendment of the  
12 Constitution of the United States of America and Article I, Section 7 of the  
13 Constitution of Louisiana and other applicable laws permit and within the  
14 limits on time, place, and manner of expression that are consistent with this  
15 Part and that are necessary to achieve a significant institutional interest; such  
16 restrictions shall be published and provide ample alternative means of  
17 expression.

18 (4) A provision that students and faculty may assemble and engage in  
19 spontaneous expressive activity as long as such activity is not unlawful and does  
20 not materially and substantially disrupt the functioning of the institution,  
21 subject to the requirements of this Part.

22 (5) A provision that any person lawfully present on a campus may  
23 protest or demonstrate there. Protests and demonstrations that infringe upon  
24 the constitutional rights of others to engage in or listen to expressive activity by  
25 creating a substantial and material disruption to the functioning of the  
26 institution or to someone's expressive activity shall not be permitted.

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

29 (7) A provision that the policy supersedes and nullifies any provision in  
30 the policies and regulations of any institution that restricts speech on campus

1 and that any such provision is therefore inconsistent with this policy on free  
2 expression. Each institution shall remove or revise any such provision in its  
3 policies and regulations to ensure compatibility with this policy on free  
4 expression.

5 **§3399.36. Reports**

6 **A. Each public postsecondary education institution shall submit a report**  
7 **to the governor and the legislature by January 1, 2019, on the implementation**  
8 **of the provisions of this Part.**

9 **B. Each institution shall annually submit a report to the governor and**  
10 **the legislature regarding any barriers to or incidents against free expression**  
11 **that occurred at the institution. The report shall detail the barrier or incident**  
12 **as well as actions taken in response to the barrier or incident.**

13 **C. If an institution is sued for an alleged violation of a right guaranteed**  
14 **by the First Amendment of the Constitution of the United States of America, the**  
15 **institution shall submit a supplementary report with a copy of the complaint to**  
16 **the governor and the state legislature within thirty days of receipt of the**  
17 **complaint.**

18 **D. Each institution shall post all reports pursuant to this Section on its**  
19 **website.**

20 **§3399.37. Regulations**

21 **Each postsecondary public education management board shall adopt**  
22 **policies to implement the provisions of this Part. Nothing in this Part shall be**  
23 **construed to prevent institutions from regulating student speech or activity that**  
24 **is prohibited by law. Except as further limited by this Part, institutions may**  
25 **restrict student expression only for expressive activity not protected by the First**  
26 **Amendment of the Constitution of the United States of America and Article I,**  
27 **Section 7 of the Constitution of Louisiana and other applicable laws.**

28 Section 2. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature  
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

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