

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3543 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Chad Caldwell

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 3543

By: Caldwell (Chad) of the  
House

6 and

7 Daniels of the Senate

8  
9  
10 FLOOR SUBSTITUTE

11 An Act relating to higher education; establishing the  
12 Oklahoma Free Speech Committee to the Oklahoma State  
13 Regents for Higher Education; specifying duties of  
14 the committee; amending 70 O.S. 2021, Section 2120,  
15 which relates to regional education services and  
16 schools; modifying reporting requirement; directing  
17 the committee to provide or approve training  
18 materials; directing for collection of complaints;  
19 requiring training; providing for codification; and  
20 declaring an emergency.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3205.11 of Title 70, unless  
24 there is created a duplication in numbering, reads as follows:

There is hereby created the Oklahoma Free Speech Committee to  
the Oklahoma State Regents for Higher Education.

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3205.12 of Title 70, unless  
3 there is created a duplication in numbering, reads as follows:

4 The duties of the Oklahoma Free Speech Committee shall be to:

5 1. Review the free speech policies of Oklahoma public  
6 universities;

7 2. Review any free speech complaints filed with the committee  
8 following Section 4 of this act;

9 3. Review university training on free speech for improvements;  
10 and

11 4. Make recommendations to the universities on improvements to  
12 free speech policies and training.

13 SECTION 3. AMENDATORY 70 O.S. 2021, Section 2120, is  
14 amended to read as follows:

15 Section 2120. A. As used in this act:

16 1. "Campus community" means students, administrators, faculty  
17 and staff at the public institution of higher education and their  
18 invited guests;

19 2. "Harassment" means only that expression that is unwelcome,  
20 so severe, pervasive and subjectively and objectively offensive that  
21 a student is effectively denied equal access to educational  
22 opportunities or benefits provided by the public institution of  
23 higher education;

24

1           3. "Materially and substantially disrupts" means when a person,  
2 with the intent to or with knowledge of doing so, significantly  
3 hinders another person's or group's expressive activity, prevents  
4 the communication of the message or prevents the transaction of the  
5 business of a lawful meeting, gathering or procession by:

6           a. engaging in fighting, violent or other unlawful  
7 behavior, or

8           b. physically blocking or using threats of violence to  
9 prevent any person from attending, listening to,  
10 viewing or otherwise participating in an expressive  
11 activity. Conduct that "materially disrupts" shall  
12 not include conduct that is protected under the First  
13 Amendment to the United States Constitution or Section  
14 22 of Article 2 of the Oklahoma Constitution. Such  
15 protected conduct includes but is not limited to  
16 lawful protests in the outdoor areas of campus  
17 generally accessible to the members of the public,  
18 except during times when those areas have been  
19 reserved in advance for other events, or minor, brief  
20 or fleeting nonviolent disruptions of events that are  
21 isolated and short in duration;

22           4. "Outdoor areas of campus" means the generally accessible  
23 outside areas of campus where members of the campus community are  
24 commonly allowed, such as grassy areas, walkways or other similar

1 common areas and does not include outdoor areas where access is  
2 restricted from a majority of the campus community;

3 5. "Public institution of higher education" means any  
4 institution within The Oklahoma State System of Higher Education or  
5 technology center schools overseen by the State Board of Career and  
6 Technology Education; and

7 6. "Student organization" means an officially recognized group  
8 at a public institution of higher education, or a group seeking  
9 official recognition, comprised of admitted students that receive or  
10 are seeking to receive benefits through the public institution of  
11 higher education.

12 B. Expressive activities protected under the provisions of this  
13 section include but are not limited to any lawful verbal, written,  
14 audio-visual or electronic means by which individuals may  
15 communicate ideas to one another, including all forms of peaceful  
16 assembly, protests, speeches and guest speakers, distribution of  
17 literature, carrying signs and circulating petitions.

18 C. 1. The outdoor areas of campuses of public institutions of  
19 higher education in this state shall be deemed public forums for the  
20 campus community, and public institutions of higher education shall  
21 not create "free speech zones" or other designated areas of campus  
22 outside of which expressive activities are prohibited. Public  
23 institutions of higher education may maintain and enforce reasonable  
24 time, place and manner restrictions narrowly tailored in service of

1 a significant institutional interest only when such restrictions  
2 employ clear, published, content- and viewpoint-neutral criteria and  
3 provide for ample alternative means of expression. Any such  
4 restrictions shall allow for members of the campus community to  
5 spontaneously and contemporaneously assemble and distribute  
6 literature.

7 2. Nothing in this subsection shall be interpreted as limiting  
8 the right of student expression elsewhere on campus.

9 D. 1. Any person who wishes to engage in noncommercial  
10 expressive activity on campus shall be permitted to do so freely, as  
11 long as the person's conduct is not unlawful and does not materially  
12 and substantially disrupt the functioning of the public institutions  
13 of higher education, subject only to the requirements of subsection  
14 C of this section.

15 2. Nothing in this subsection shall prohibit public  
16 institutions of higher education from maintaining and enforcing  
17 reasonable time, place and manner restrictions that are narrowly  
18 tailored to serve a significant institutional interest only when  
19 such restrictions employ clear, published, content- and viewpoint-  
20 neutral criteria. Any such restrictions shall allow for members of  
21 the campus community to spontaneously and contemporaneously  
22 assemble, speak and distribute literature.

23 3. Nothing in this subsection shall be interpreted as  
24 preventing public institutions of higher education from prohibiting,

1 limiting or restricting expression that the First Amendment does not  
2 protect or prohibiting harassment as defined by this section.

3 4. Nothing in this section shall enable individuals to engage  
4 in conduct that intentionally, materially and substantially disrupts  
5 another person's expressive activity if that activity is occurring  
6 in a campus space reserved for that activity under the exclusive use  
7 or control of a particular group.

8 E. Public institutions of higher education shall make public in  
9 their handbooks, on their websites and through their orientation  
10 programs for students the policies, regulations and expectations of  
11 students regarding free expression on campus consistent with this  
12 section.

13 F. Public institutions of higher education shall develop  
14 materials, programs and procedures to ensure that those persons who  
15 have responsibility for discipline or education of students,  
16 including but not limited to administrators, campus police officers,  
17 residence life officials and professors, understand the policies,  
18 regulations and duties of public institutions of higher education  
19 regarding free expression on campus consistent with this section.

20 G. 1. Each public institution of higher education shall  
21 publicly post on its website, as well as submit to the Governor ~~and,~~  
22 the Legislature, and the Chancellor of The Oklahoma State System of  
23 Higher Education annually by December 31, a report that details the  
24 course of action implemented to be in compliance with the

1 requirements of this section. A report shall also be given in the  
2 instance of any changes or updates to the chosen course of action.

3 The information required in the report shall be:

- 4 a. accessible from the institution's website home page by  
5 use of not more than three links,
- 6 b. searchable by key words and phrases, and
- 7 c. accessible to the public without requiring  
8 registration or use of a user name, password or  
9 another user identification.

10 2. The report shall include:

- 11 a. a description of any barriers to or incidents of  
12 disruption of free expression occurring on campus,  
13 including but not limited to attempts to block or  
14 prohibit speakers and investigations into students or  
15 student organizations for their speech. The  
16 description shall include the nature of each barrier  
17 or incident, as well as what disciplinary action, if  
18 any, was taken against members of the campus community  
19 determined to be responsible for those specific  
20 barriers or incidents involving students without  
21 revealing those students' personally identifiable  
22 information, and
- 23 b. any other information each public institution of  
24 higher education deems valuable for the public to



1 evaluate whether free expression rights for all  
2 members of the campus community have been equally  
3 protected and enforced consistent with this act.

4 3. If a public institution of higher education is sued for an  
5 alleged violation of First Amendment rights, a supplementary report  
6 with a copy of the complaint, or any amended complaint, shall be  
7 submitted to the Governor and the Legislature within thirty (30)  
8 days.

9 H. Any person or student organization aggrieved by a violation  
10 of this section may bring an action against the public institution  
11 of higher education and its employees acting in their official  
12 capacities responsible for the violation and seek appropriate  
13 relief, including but not limited to injunctive relief, monetary  
14 damages, reasonable attorneys' fees and court costs. Any person or  
15 student organization aggrieved by a violation of this section may  
16 assert such violation as a defense or counter claim in any  
17 disciplinary action or in any civil or administrative proceedings  
18 brought against such student or student organization. Nothing in  
19 this subsection shall be interpreted to limit any other remedies  
20 available to any person or student organization.

21 I. A person shall be required to bring suit for violation of  
22 this section no later than one year after the day the cause of  
23 action occurs. For purposes of calculating the one-year limitation  
24 period, each day that the violation persists and each day that a

1 policy in violation of this section remains in effect shall  
2 constitute a new day that the cause of action has occurred.

3 J. If any provision of this section or any application of such  
4 provision to any person or circumstance is held to be  
5 unconstitutional, the remainder of the section and the application  
6 of the provision to any other person or circumstance shall not be  
7 affected.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 3205.13 of Title 70, unless  
10 there is created a duplication in numbering, reads as follows:

11 The Oklahoma Free Speech Committee shall develop a process of  
12 collecting complaints of free speech violations on public university  
13 campuses and advise complainants of their rights. Universities  
14 shall publish contact information on how to report free speech  
15 concerns to the Oklahoma Free Speech Committee on their website.

16 SECTION 5. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3205.14 of Title 70, unless  
18 there is created a duplication in numbering, reads as follows:

19 The Oklahoma Free Speech Committee shall either develop a First  
20 Amendment training or approve of an outside First Amendment training  
21 that shall be required for all college deans, heads of departments,  
22 and individuals responsible for establishing university free speech  
23 policies or handling free speech complaints. The Committee shall  
24 either revise or reapprove the training every two years. The

1 training will be required every two years, or upon hire or promotion  
2 to one of the aforementioned roles.

3 SECTION 6. It being immediately necessary for the preservation  
4 of the public peace, health or safety, an emergency is hereby  
5 declared to exist, by reason whereof this act shall take effect and  
6 be in full force from and after its passage and approval.

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8 58-2-11049 MJ 03/07/22

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