

HOUSE BILL No. 2472

By Committee on Higher Education Budget

Requested by Representative Fairchild

1-20

1 AN ACT concerning postsecondary educational institutions; enacting the
2 forming open and robust university minds act or FORUM Act;
3 prohibiting such institutions from certain actions concerning freedom
4 of speech, expression and association; providing exceptions thereto;
5 providing for monetary damages; requiring the submission of a report
6 to the legislature and the governor.

7
8 WHEREAS, The first amendment to the Constitution of the United
9 States and section 11 of the bill of rights of the Constitution of the State of
10 Kansas guarantee every citizen the right to freedom of speech, expression
11 and association and to petition the government; and

12 WHEREAS, The United States supreme court has emphasized that
13 public universities are the "marketplace of ideas" (*Healy v. James*, 408
14 U.S. 169) and that suppressing student speech risks stagnating a free
15 society (*Sweezy v. New Hampshire*, 354 U.S. 234); and

16 WHEREAS, Specific policies on Kansas postsecondary educational
17 institution campuses, including the creation of free speech zones, prior
18 restraint through permit processes and preference toward affiliated
19 speakers, are inconsistent with constitutional protections; and

20 WHEREAS, It is essential to reaffirm that postsecondary educational
21 institutions funded by Kansas taxpayers must protect the expressive rights
22 of all students, faculty, staff and invited guests.

23 Now, therefore:

24 *Be it enacted by the Legislature of the State of Kansas:*

25 Section 1. This act shall be known and may be cited as the forming
26 open and robust university minds act or FORUM Act.

27 Sec. 2. As used in sections 1 through 10, and amendments thereto:

28 (a) "Benefit" means any of the following, when made available to
29 student organizations:

30 (1) Recognition;
31 (2) registration;
32 (3) use of facilities;
33 (4) channels of communication; and
34 (5) funding.

35 (b) "Campus community" includes students, administrators, faculty,

1 staff and their invited guests.

2 (c) "Harassment" means only that conduct which is unwelcome and
3 so severe, pervasive and objectively offensive that it effectively denies a
4 student equal access to educational opportunities.

5 (d) "Materially and substantially disrupts" means behavior that
6 significantly hinders another person's expressive activity or lawful
7 gathering, involving violence, threats or physical obstruction. Minor or
8 fleeting nonviolent disruptions shall not meet this standard.

9 (e) "Outdoor areas of campus" means the generally accessible outside
10 spaces such as sidewalks, lawns and courtyards where the campus
11 community is typically permitted on a postsecondary educational
12 institution.

13 (f) "Postsecondary educational institution" or "institution" means any
14 public university, municipal university, community college and technical
15 college and includes any entity resulting from the consolidation or
16 affiliation of any two or more of such postsecondary educational
17 institutions.

18 (g) "Student" refers to anyone enrolled full time or part time in a
19 postsecondary educational institution.

20 (h) "Student organization" means any officially recognized group of
21 students, or group seeking recognition, that receives or seeks benefits.

22 Sec. 3. (a) All outdoor areas of campus shall be deemed public
23 forums.

24 (b) No institution shall restrict expression to designated free speech
25 zones.

26 (c) An institution may enforce time, place and manner restrictions
27 only if such restrictions:

- 28 (1) Are narrowly tailored to serve a compelling interest;
- 29 (2) are content-neutral and viewpoint-neutral;
- 30 (3) are published and clearly defined; and
- 31 (4) provide ample alternative means of expression.

32 Sec. 4. (a) Any person may engage in lawful, noncommercial
33 expressive activity in outdoor areas of campus without prior approval if
34 such person's conduct is lawful and does not materially and substantially
35 disrupt campus operations.

36 (b) An institution shall not:

- 37 (1) Require permits solely based on a speaker's affiliation;
- 38 (2) impose an advance notice requirement for spontaneous
39 assemblies;
- 40 (3) prioritize affiliated over nonaffiliated speakers; or
- 41 (4) use policies that function as de facto censorship.

42 Sec. 5. No postsecondary educational institution shall deny benefits
43 to student organizations based on:

- 1 (a) Such organization's mission or beliefs;
- 2 (b) standards for leadership or membership; or
- 3 (c) adherence to organizational values.

4 Sec. 6. Each postsecondary educational institution shall:

- 5 (a) Publish all speech-related policies online and in student

6 handbooks;

- 7 (b) provide training on such policies to faculty, staff and campus law

8 enforcement; and

9 (c) on or before January 11, 2027, and the first day of each regular

10 session of the legislature thereafter, submit a report to the legislature and

11 the governor on the following matters that occurred in the previous fiscal

12 year:

- 13 (1) Any speech restrictions enforced;

- 14 (2) any incidents of speech disruption or censorship;

15 (3) legal actions filed and the outcomes of such filings pursuant to

16 section 7, and amendments thereto;

17 (4) number and dollar amounts of monetary damages and amounts of

18 attorney fees and court costs;

19 (5) policy updates or reforms undertaken; and

20 (6) any other information concerning this act that is deemed pertinent

21 by the institution.

22 Sec. 7. (a) Any person or student organization aggrieved under this

23 act may file an action in district court against the institution or relevant

24 officials for declaratory relief or to enjoin the violation.

25 (b) An action under this section shall be filed in the district court of

26 the county where the postsecondary educational institution's primary

27 campus is located. The district court of any county shall have jurisdiction

28 to enforce any order or finding of violation. If the district court finds that a

29 postsecondary educational institution has violated this act, the district

30 court shall enter an order:

- 31 (1) Requiring the institution to comply with this act;

32 (2) imposing monetary damages in an amount of not more than

33 \$5,000 for each violation; and

34 (3) requiring the institution to pay the attorney fees and court costs

35 incurred in enforcing the violation if the court finds that the institution's

36 violation was not made in good faith and was made without a reasonable

37 basis in fact or law.

38 Sec. 8. (a) The statute of limitations for claims under this act shall be

39 one year from the date of the violation.

40 (b) The limitations period shall renew each day that an

41 unconstitutional policy remains in effect.

42 (c) The protections under this act shall apply regardless of whether

43 the expression originates on campus or off campus if such expression does

1 not violate current law.

2 Sec. 9. (a) No postsecondary educational institution shall discipline,
3 penalize or otherwise retaliate against a student, student organization,
4 faculty member or staff for expressive activity conducted online, whether
5 on social media, in email, on websites or other digital platforms, if such
6 activity is protected under the first amendment to the constitution of the
7 United States and section 11 of the bill of rights of the constitution of the
8 state of Kansas and conducted in person.

9 (b) Student organizations shall not be denied benefits based on such
10 organization's expression or opinions shared through official or affiliated
11 social media, in email, on websites or other digital platforms.

12 (c) Any disciplinary action or investigation based on online speech
13 shall meet the same threshold as on-campus speech.

14 (d) Public institutions shall not require students or student
15 organizations to obtain approval for digital content before publication.

16 (e) Institutions shall not impose mandatory review processes on
17 online material unless such review is narrowly tailored to address a
18 compelling interest, such as threats of violence or unlawful conduct.

19 (f) All incidents involving regulation or disciplinary response to
20 online student or organizational speech shall be included in the annual
21 report required pursuant section 6, and amendments thereto. Such annual
22 report shall also include:

23 (1) A description of the online content at issue;
24 (2) the rationale for any institutional action taken; and
25 (3) the outcome of the matter.

26 Sec. 10. If any provision of this act or application thereof to any
27 person or circumstance is held invalid, such invalidity shall not affect other
28 provisions or applications of this act that can be given effect without the
29 invalid provision or application, and to this end, the provisions of this act
30 are declared to be severable.

31 Sec. 11. This act shall take effect and be in force from and after its
32 publication in the statute book.