

1 A bill to be entitled
2 An act relating to postsecondary education; amending
3 ss. 1001.03 and 1001.706, F.S.; defining the terms
4 "intellectual freedom and viewpoint diversity" and
5 "shield"; requiring the State Board of Education and
6 the Board of Governors, respectively, to annually
7 assess intellectual freedom and viewpoint diversity at
8 certain institutions; providing requirements for the
9 assessment; authorizing the State Board of Education
10 to adopt rules; prohibiting the State Board of
11 Education and the Board of Governors, respectively,
12 from shielding certain students, faculty, or staff
13 from certain speech; amending s. 1004.097, F.S.;
14 defining the term "shield"; providing that certain
15 faculty communications are protected expressive
16 activity; prohibiting specified entities from
17 shielding students, faculty, or staff from certain
18 speech; authorizing students at public postsecondary
19 institutions to record video and audio in classrooms
20 for specified purposes; prohibiting the publication of
21 certain video or audio recordings; providing
22 exception; revising available remedies for certain
23 causes of action to include damages; providing that
24 such damages and specified costs and fees must be paid
25 from nonstate funds; providing a cause of action

26 | against a person who publishes certain video or audio
 27 | recordings; providing a limitation on attorney fees;
 28 | amending s. 1004.26, F.S.; requiring university
 29 | student governments to adopt certain internal
 30 | procedures; providing requirements for such
 31 | procedures; amending s. 1006.60, F.S.; requiring the
 32 | State Board of Education and the Board of Governors to
 33 | require certain institutions to adopt codes of
 34 | conduct; providing requirements for such codes of
 35 | conduct; providing that such codes of conduct include
 36 | certain due process rights; providing an effective
 37 | date.

38 |

39 | Be It Enacted by the Legislature of the State of Florida:

40 |

41 | Section 1. Subsection (19) is added to section 1001.03,
 42 | Florida Statutes, to read:

43 | 1001.03 Specific powers of State Board of Education.—

44 | (19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

45 | ASSESSMENT.—

46 | (a) For the purposes of this subsection, the term:

47 | 1. "Intellectual freedom and viewpoint diversity" means
 48 | the exposure of students, faculty, and staff to, and the
 49 | encouragement of their exploration of, a variety of ideological
 50 | and political perspectives.

51 2. "Shield" means to limit students', faculty members', or
52 staff members' access to, or observation of, ideas and opinions
53 that they may find uncomfortable, unwelcome, disagreeable, or
54 offensive.

55 (b) The State Board of Education shall require each
56 Florida College System institution to conduct an annual
57 assessment of the intellectual freedom and viewpoint diversity
58 at that institution. The State Board of Education shall select
59 or create an objective, nonpartisan, and statistically valid
60 survey to be used by each institution which considers the extent
61 to which competing ideas and perspectives are presented and
62 members of the college community, including students, faculty,
63 and staff, feel free to express their beliefs and viewpoints on
64 campus and in the classroom. The State Board of Education shall
65 annually compile and publish the assessments by September 1 of
66 each year, beginning on September 1, 2022. The State Board of
67 Education may adopt rules to implement this paragraph.

68 (c) The State Board of Education may not shield students,
69 faculty, or staff at Florida College System institutions from
70 free speech protected under the First Amendment to the United
71 States Constitution, Art. I of the State Constitution, or s.
72 1004.097.

73 Section 2. Subsection (13) is added to section 1001.706,
74 Florida Statutes, to read:

75 1001.706 Powers and duties of the Board of Governors.—

76 (13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY
 77 ASSESSMENT.—

78 (a) For the purposes of this subsection, the term:

79 1. "Intellectual freedom and viewpoint diversity" means
 80 the exposure of students, faculty, and staff to, and the
 81 encouragement of their exploration of, a variety of ideological
 82 and political perspectives.

83 2. "Shield" means to limit students', faculty members', or
 84 staff members' access to, or observation of, ideas and opinions
 85 that they may find uncomfortable, unwelcome, disagreeable, or
 86 offensive.

87 (b) The Board of Governors shall require each state
 88 university to conduct an annual assessment of the intellectual
 89 freedom and viewpoint diversity at that institution. The Board
 90 of Governors shall select or create an objective, nonpartisan,
 91 and statistically valid survey to be used by each state
 92 university which considers the extent to which competing ideas
 93 and perspectives are presented and members of the university
 94 community, including students, faculty, and staff, feel free to
 95 express their beliefs and viewpoints on campus and in the
 96 classroom. The Board of Governors shall annually compile and
 97 publish the assessments by September 1 of each year, beginning
 98 on September 1, 2022.

99 (c) The Board of Governors may not shield students,
 100 faculty, or staff at state universities from free speech

101 protected under the First Amendment to the United States
102 Constitution, Art. I of the State Constitution, or s. 1004.97.

103 Section 3. Paragraph (a) of subsection (3) and subsection
104 (4) of section 1004.097, Florida Statutes, are amended,
105 paragraph (f) is added to subsection (2), and paragraphs (f) and
106 (g) are added to subsection (3) of that section, to read:

107 1004.097 Free expression on campus.—

108 (2) DEFINITIONS.—As used in this section, the term:

109 (f) "Shield" means to limit students', faculty members',
110 or staff members' access to, or observation of, ideas and
111 opinions that they may find uncomfortable, unwelcome,
112 disagreeable, or offensive.

113 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

114 (a) Expressive activities protected under the First
115 Amendment to the United States Constitution and Art. I of the
116 State Constitution include, but are not limited to, any lawful
117 oral or written communication of ideas, including all forms of
118 peaceful assembly, protests, and speeches; distributing
119 literature; carrying signs; circulating petitions; faculty
120 research, lectures, writings, and commentary, whether published
121 or unpublished; and the recording and publication, including the
122 Internet publication, of video or audio recorded in outdoor
123 areas of campus. Expressive activities protected by this section
124 do not include defamatory or commercial speech.

125 (f) A Florida College System institution or a state

126 | university may not shield students, faculty, or staff from
 127 | expressive activities.

128 | (g) Notwithstanding s. 934.03(1) and subject to the
 129 | protections provided in the Family Educational Rights and
 130 | Privacy Act of 1974, 20 U.S.C. s. 1232g and ss. 1002.22 and
 131 | 1002.225, a student may record video or audio of class lectures
 132 | for their own personal educational use, in connection with a
 133 | complaint to the college or university where the recording was
 134 | made, or as evidence in, or in preparation for, a criminal or
 135 | civil proceeding. A recorded lecture may not be published
 136 | without the consent of the lecturer.

137 | (4) CAUSE OF ACTION.—A person injured by a violation of
 138 | ~~whose expressive rights are violated by an action prohibited~~
 139 | ~~under~~ this section may bring an action:

140 | (a) Against a public institution of higher education based
 141 | on the violation of the individual's expressive rights in a
 142 | court of competent jurisdiction to obtain declaratory and
 143 | injunctive relief and may be entitled to damages plus court
 144 | costs and reasonable attorney fees, which may only be paid from
 145 | nonstate funds, reasonable court costs, and attorney fees.

146 | (b) Against a person who has published video or audio
 147 | recorded in a classroom in violation of paragraph (3)(g) in a
 148 | court of competent jurisdiction to obtain declaratory and
 149 | injunctive relief and may be entitled to damages plus court
 150 | costs and reasonable attorney fees not to exceed \$200,000.

151 Section 4. Paragraph (d) is added to subsection (4) of
 152 section 1004.26, Florida Statutes, to read:

153 1004.26 University student governments.—

154 (4)

155 (d) Notwithstanding any other provision of law, each
 156 student government shall adopt internal procedures providing an
 157 elected or appointed officer of the student government who has
 158 been disciplined, suspended, or removed from office, the right
 159 to directly appeal such decision to the vice president of
 160 student affairs or other senior university administrator
 161 designated to hear such appeals. The internal procedures shall
 162 not condition the exercise of such right on the consideration or
 163 decision of any student panel, including, but not limited to,
 164 any student judiciary, or place any condition precedent on the
 165 exercise of such right granted by this paragraph.

166 Section 5. Section 1006.60, Florida Statutes, is amended
 167 to read:

168 1006.60 Codes of conduct; disciplinary measures; ~~authority~~
 169 to adopt rules or regulations.—

170 (1) The State Board of Education and the Board of
 171 Governors, respectively, shall require, each Florida College
 172 System institution to ~~may~~ adopt, by rule, and each state
 173 university to ~~may~~ adopt, by regulation, codes of conduct and
 174 appropriate penalties for violations of rules or regulations by
 175 students, to be administered by the institution. Such penalties,

176 unless otherwise provided by law, may include: reprimand;
 177 restitution; fines; withholding of diplomas or transcripts
 178 pending compliance with rules or regulations, completion of any
 179 student judicial process or sanction, or payment of fines;
 180 restrictions on the use of or removal from campus facilities;
 181 community service; educational requirements; and the imposition
 182 of probation, suspension, dismissal, or expulsion.

183 (2) The State Board of Education and the Board of
 184 Governors, respectively, shall require, each Florida College
 185 System institution to ~~may~~ adopt, by rule, and each state
 186 university to ~~may~~ adopt, by regulation, a code of conduct and
 187 appropriate penalties for violations of rules or regulations by
 188 student organizations, to be administered by the institution.
 189 Such penalties, unless otherwise provided by law, may include:
 190 reprimand; restitution; suspension, cancellation, or revocation
 191 of the registration or official recognition of a student
 192 organization; and restrictions on the use of, or removal from,
 193 campus facilities.

194 (3) The codes of conduct shall be published on the Florida
 195 College System institution's or state university's website,
 196 protect the rights of all students, and, at minimum, provide the
 197 following due process protections to students and student
 198 organizations:

199 (a) The right to timely written notice. The code must
 200 require that the institution or university provide a student or

201 student organization with timely written notice of the student's
202 or student organization's alleged violation of the code of
203 conduct. The notice must include sufficient detail and be
204 provided with sufficient time to prepare for any disciplinary
205 proceeding.

206 1. The written notice must include the allegations to be
207 investigated, the citation to the specific provision of the code
208 of conduct at issue, the process to be used in determining
209 whether a violation has occurred and associated rights, and the
210 date, time, and location of the disciplinary proceeding.

211 2. The written notice is considered timely if it is
212 provided at least 7 business days before the disciplinary
213 proceeding and may be provided by delivery to the student's
214 institutional e-mail address, and if the student is under 18
215 years of age, to the student's parent or to the student
216 organization's e-mail address.

217 3. At least 5 business days before the disciplinary
218 proceeding, the institution or university must provide the
219 student or student organization with:

220 a. A listing of all known witnesses that have provided, or
221 will provide, information against the student or student
222 organization.

223 b. All known information relating to the allegation,
224 including inculpatory and exculpatory information.

225 (b) The right to a presumption that no violation occurred.

226 The institution has the burden to prove, by a preponderance of
227 the evidence, that a violation has taken place. Preponderance of
228 the evidence means that the information presented supports the
229 finding that it is more likely than not that the violation of
230 the code of conduct was committed by the student or student
231 organization.

232 (c) The right to an impartial hearing officer.

233 (d) The right against self-incrimination and the right to
234 remain silent. Such silence may not be used against the student
235 or student organization.

236 (e) The right to present relevant information and question
237 witnesses.

238 (f) The right to an advisor or advocate who may not serve
239 in any other role, including as an investigator, decider of
240 fact, hearing officer, member of a committee or panel convened
241 to hear or decide the charge, or any appeal.

242 (g) The right to have an advisor, advocate, or legal
243 representative, at the student's or student organization's own
244 expense, present at any proceeding, whether formal or informal.
245 Such person may directly participate in all aspects of the
246 proceeding, including the presentation of relevant information
247 and questioning of witnesses.

248 (h) The right to appeal the final decision of the hearing
249 officer, or any committee or panel, directly to the vice
250 president of student affairs, or any other senior administrator

251 designated by the code of conduct, who must hear the appeal and
252 render a final decision. The vice president of student affairs
253 or person designated by the code of conduct to hear the appeal
254 may not have directly participated in any other proceeding
255 related to the charged violation.

256 (i) The right to an accurate and complete record of every
257 disciplinary proceeding relating to the charged violation of the
258 code, including record of any appeal, to be made, preserved, and
259 available for copying upon request by the charged student or
260 student organization.

261 (j) A provision setting a time limit for charging a
262 student or student organization with a violation of the code of
263 conduct, and a description of those circumstances in which that
264 time limit may be extended or waived.

265 (4)(3) Sanctions authorized by such codes of conduct may
266 be imposed only for acts or omissions in violation of rules or
267 regulations adopted by the institution, including rules or
268 regulations adopted under this section, rules of the State Board
269 of Education, rules or regulations of the Board of Governors
270 regarding the State University System, county and municipal
271 ordinances, and the laws of this state, the United States, or
272 any other state.

273 (5)(4) Each Florida College System institution may
274 establish and adopt, by rule, and each state university may
275 establish and adopt, by regulation, codes of appropriate

276 penalties for violations of rules or regulations governing
277 student academic honesty. Such penalties, unless otherwise
278 provided by law, may include: reprimand; reduction of grade;
279 denial of academic credit; invalidation of university credit or
280 of the degree based upon such credit; probation; suspension;
281 dismissal; or expulsion. In addition to any other penalties that
282 may be imposed, an individual may be denied admission or further
283 registration, and the institution may invalidate academic credit
284 for work done by a student and may invalidate or revoke the
285 degree based upon such credit if it is determined that the
286 student has made false, fraudulent, or incomplete statements in
287 the application, residence affidavit, or accompanying documents
288 or statements in connection with, or supplemental to, the
289 application for admission to or graduation from the institution.

290 (6)~~(5)~~ Each Florida College System institution shall adopt
291 rules and each state university shall adopt regulations for the
292 lawful discipline of any student who intentionally acts to
293 impair, interfere with, or obstruct the orderly conduct,
294 processes, and functions of the institution. Said rules or
295 regulations may apply to acts conducted on or off campus when
296 relevant to such orderly conduct, processes, and functions.

297 Section 6. This act shall take effect July 1, 2021.