

By: Representatives McCarty, Owen, Stamps

To: Education

## HOUSE BILL NO. 1416

1 AN ACT TO CREATE THE "STUDENT PROTECTED EQUAL ACCESS RIGHTS  
2 (SPEAR) ACT"; TO PROVIDE EQUAL ACCESS TO THE USE OF SCHOOL  
3 PROPERTY TO STUDENTS IN PUBLIC SCHOOLS FOR PURPOSES OF ENGAGING IN  
4 POLITICAL ACTIVITIES OR POLITICAL OR PHILOSOPHICAL EXPRESSION  
5 BEFORE, DURING AND AFTER THE SCHOOL DAY IN THE SAME MANNER AND TO  
6 THE SAME EXTENT THAT STUDENTS MAY ENGAGE IN NONPOLITICAL  
7 ACTIVITIES OR EXPRESSION; TO ALLOW STUDENTS IN PUBLIC SCHOOLS TO  
8 ORGANIZE PARTISAN OR NONPARTISAN POLITICAL GROUPS, POLITICAL  
9 CLUBS, POLITICAL RALLIES, OR OTHER POLITICALLY THEMED GATHERINGS  
10 BEFORE, DURING AND AFTER SCHOOL TO THE SAME EXTENT THAT STUDENTS  
11 ARE PERMITTED TO ORGANIZE OTHER NONCURRICULAR STUDENT ACTIVITIES  
12 AND GROUPS; TO ALLOW SCHOOL DISTRICTS TO DISCLAIM SCHOOL  
13 SPONSORSHIP OF NONCURRICULAR GROUPS AND EVENTS IN A MANNER THAT  
14 NEITHER FAVORS NOR DISFAVORS GROUPS; TO PROHIBIT PUBLIC SCHOOLS  
15 WHICH HAVE LIMITED OPEN FORUMS FROM DENYING EQUAL ACCESS OR A FAIR  
16 OPPORTUNITY TO, OR DISCRIMINATING AGAINST STUDENTS WHO WISH TO  
17 CONDUCT A MEETING WITHIN THAT LIMITED OPEN FORUM ON THE BASIS OF  
18 THE POLITICAL, PHILOSOPHICAL, IDEOLOGICAL OR OTHER CONTENT OF THE  
19 SPEECH; TO PROVIDE THAT A PUBLIC SCHOOL IS DEEMED TO HAVE LIMITED  
20 OPEN FORUM WHEN SUCH SCHOOL GRANTS AN OPPORTUNITY FOR ONE OR MORE  
21 NONCURRICULAR-RELATED STUDENT GROUPS TO MEET ON SCHOOL PREMISES  
22 DURING NONINSTRUCTIONAL TIME; TO SPECIFY THE CRITERIA THAT WOULD  
23 CONSTITUTE A SCHOOL BEING DEEMED AS OFFERING A FAIR OPPORTUNITY  
24 FOR STUDENTS AS A LIMITED OPEN FORUM; TO PROVIDE THAT THE  
25 CONSTRUCTION OF THIS ACT IS NOT AUTHORIZING THE STATE OF  
26 MISSISSIPPI OR ANY POLITICAL SUBDIVISION THEREOF TO TAKE ANY  
27 OFFICIAL ACTION OR POSITION WITH REGARD TO PROMOTING OR SUPPORTING  
28 ANY PARTICULAR GROUPS EFFORTS TO SEEK A LIMITED OPEN FORUM; TO  
29 PROVIDE FOR THE SEVERABILITY OF UNENFORCEABLE PROVISIONS; AND FOR  
30 RELATED PURPOSES.

31 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



32           **SECTION 1.** This act shall be known and may be cited as the  
33 "Student Protected Equal Access Rights (SPEAR) Act."

34           **SECTION 2.** As used in this act, the following terms shall  
35 have the meanings ascribed in this section, unless context of use  
36 clearly requires otherwise:

37                   (a) "Public school" means a school under the control of  
38 a local school board which is subject to the governance, rules and  
39 regulations of the State Board of Education.

40                   (b) "Sponsorship" includes the act of promoting,  
41 leading or participating in a meeting. The assignment of a  
42 teacher, administrator or other school employee to a meeting for  
43 custodial purposes does not constitute sponsorship of the meeting.

44                   (c) "Meeting" includes those activities of student  
45 groups which are permitted under a school's limited open forum and  
46 are not directly related to the school curriculum.

47                   (d) "Noninstructional time" means time set aside by the  
48 school before actual classroom instruction begins or after actual  
49 classroom instruction ends.

50           **SECTION 3.** (1) Students in public schools may engage in  
51 political activities or political or philosophical expression  
52 before, during and after the school day in the same manner and to  
53 the same extent that students may engage in nonpolitical  
54 activities or expression. Students may organize partisan or  
55 nonpartisan political groups, political clubs, political rallies,  
56 or other politically themed gatherings before, during and after



57 school to the same extent that students are permitted to organize  
58 other noncurricular student activities and groups. Partisan and  
59 nonpartisan political groups must be given the same access to  
60 school facilities for assembling as is given to other  
61 noncurricular groups without discrimination based on the political  
62 content of the students' expression. If student groups that meet  
63 for nonpolitical activities are permitted to advertise or announce  
64 meetings of the groups, the school district may not discriminate  
65 against groups that meet for such purposes. A school district may  
66 disclaim school sponsorship of noncurricular groups and events in  
67 a manner that neither favors nor disfavors groups that meet to  
68 engage in political activity or political speech.

69 (2) Students in public schools may wear clothing,  
70 accessories and jewelry that display political messages or  
71 political symbols in the same manner and to the same extent that  
72 other types of clothing, accessories and jewelry that display  
73 messages or symbols are permitted.

74 **SECTION 4.** (1) It shall be unlawful for any public school  
75 which has a limited open forum to deny equal access or a fair  
76 opportunity to, or discriminate against, any students who wish to  
77 conduct a meeting within that limited open forum on the basis of  
78 the political, philosophical, ideological or other content of the  
79 speech at such meetings.

80 (2) A public school has a limited open forum whenever such  
81 school grants an offering to or opportunity for one or more



82 noncurricular-related student groups to meet on school premises  
83 during noninstructional time.

84 (3) Schools shall be deemed to offer a fair opportunity to  
85 students who wish to conduct a meeting within its limited open  
86 forum if such school uniformly provides that:

87 (a) The meeting is voluntary and student initiated;

88 (b) There is no sponsorship of the meeting by the  
89 school, the government or its agents or employees;

90 (c) The meeting does not materially and substantially  
91 interfere with the orderly conduct of educational activities  
92 within the school; and

93 (d) Nonschool persons may not direct, conduct, control  
94 or regularly attend activities of student groups.

95 (4) Nothing in this act shall be construed to authorize the  
96 State of Mississippi or any political subdivision thereof to:

97 (a) Influence the form or content of any political,  
98 philosophical or ideological activity;

99 (b) Require any person to participate in politics or  
100 political activity;

101 (c) Expend public funds beyond the incidental cost of  
102 providing the space for student-initiated meetings;

103 (d) Compel any school agent or employee to attend a  
104 school meeting if the content of the speech at the meeting is  
105 contrary to the beliefs of the agent or employee;

106 (e) Sanction meetings that are otherwise unlawful;



107 (f) Limit the rights of groups of students which are  
108 not of a specified numerical size; or

109 (g) Abridge the constitutional rights of any person.

110 (5) Notwithstanding the availability of any other remedy  
111 under the Constitution of the United States, the Mississippi  
112 Constitution of 1890 or any federal or state laws, nothing in this  
113 act shall be construed to authorize the United States or the State  
114 of Mississippi to deny or withhold federal or state financial  
115 assistance, respectively, to any school.

116 (6) Nothing in this act shall be construed to limit the  
117 authority of the school, its agents or employees, to maintain  
118 order and discipline on school premises, to protect the well-being  
119 of students and faculty, and to assure that attendance of students  
120 at meetings is voluntary.

121 **SECTION 5.** If any provision of this act or the application  
122 thereof to any person or circumstances is judicially determined to  
123 be invalid, the provisions of the remainder of the act and the  
124 application to other persons or circumstances shall not be  
125 affected thereby.

126 **SECTION 6.** This act shall take effect and be in force from  
127 and after July 1, 2022.

