

By: Representative Wilkes

To: Universities and
Colleges

HOUSE BILL NO. 1562

1 AN ACT TO ESTABLISH THE "FORMING OPEN AND ROBUST UNIVERSITY
2 MINDS (FORUM) ACT," AS IT RELATES TO FREEDOM OF SPEECH ON THE
3 CAMPUSES OF STATE INSTITUTIONS OF HIGHER LEARNING; TO PROHIBIT A
4 STATE INSTITUTION OF HIGHER LEARNING FROM DENYING A RELIGIOUS,
5 POLITICAL OR IDEOLOGICAL STUDENT ORGANIZATION A BENEFIT OR
6 PRIVILEGE AVAILABLE TO ANOTHER STUDENT ORGANIZATION, OR OTHERWISE
7 DISCRIMINATE AGAINST SUCH AN ORGANIZATION, BASED ON THE EXPRESSION
8 OF THE ORGANIZATION; TO REQUIRE STATE INSTITUTIONS OF HIGHER
9 LEARNING TO DEVELOP AND MAKE AVAILABLE MATERIALS EXPLAINING THE
10 POLICY FOR CAMPUS STAFF AND STUDENTS; TO REQUIRE STATE
11 INSTITUTIONS OF HIGHER LEARNING TO SUBMIT A YEARLY REPORT
12 DETAILING THE COURSE OF ACTION IMPLEMENTED TO COMPLY WITH THE
13 POLICY; TO PRESCRIBE A ONE-YEAR STATUTE OF LIMITATIONS FOR ACTIONS
14 BROUGHT UNDER THIS ACT; TO WAIVE THE STATE'S IMMUNITY FROM
15 LIABILITY UNDER THE ELEVENTH AMENDMENT OF THE UNITED STATES
16 CONSTITUTION; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** This act shall be known and may be cited as the
19 "Forming Open and Robust University Minds (FORUM) Act."

20 **SECTION 2.** As used in this act, the following terms shall
21 have the meaning ascribed in this section, unless context of use
22 clearly requires otherwise:

- 23 (a) "Benefit" means the following:
- 24 (i) Recognition;
- 25 (ii) Registration;



26 (iii) The use of facilities of the institution of
27 higher education for meetings or speaking purposes;

28 (iv) The use of channels of communication; and

29 (v) Funding sources that are otherwise available
30 to other student organizations at the state institution of higher
31 learning.

32 (b) "Campus Community" includes students,
33 administrators, faculty and staff at the institution of higher
34 education and their invited guests.

35 (c) "Harassment" shall mean only that expression that
36 is unwelcome, so severe, pervasive, and subjectively and
37 objectively offensive, that a student is effectively denied equal
38 access to educational opportunities or benefits provided by the
39 state institution of higher learning.

40 (d) "Materially and substantially disrupts" means when
41 a person, with the intent to or with knowledge of doing so,
42 significantly hinders another person's or group's expressive
43 activity, prevents the communication of the message, or prevents
44 the transaction of the business of a lawful meeting, gathering or
45 procession by:

46 (i) Engaging in fighting, violent, or other
47 unlawful behavior; or

48 (ii) Physically blocking or using threats of
49 violence to prevent any person from attending, listening to,
50 viewing, or otherwise participating in an expressive activity.



51 Conduct that "materially disrupts" shall not include conduct that
52 is protected under the First Amendment to the United States
53 Constitution or Section 14, Mississippi Constitution of 1890.
54 Such protected conduct includes, but is not limited to, lawful
55 protests in the outdoor areas of campus generally accessible to
56 the members of the public (except during times when those areas
57 have been reserved in advance for other events), or minor, brief,
58 or fleeting nonviolent disruptions of events that are isolated and
59 short in duration.

60 (e) "Outdoor areas of campus" means the generally
61 accessible outside areas of campus where members of the campus
62 community are commonly allowed, such as grassy areas, walkways or
63 other similar common areas and does not include outdoor areas
64 where access is restricted from a majority of the campus
65 community.

66 (f) "State institution of higher learning" means any
67 public technical institute, public junior college, public senior
68 college or university, law school, medical or dental school,
69 public state college, or other agency of higher education.

70 (g) "Student" means any person who is enrolled on a
71 full-time or part-time basis in a state institution of higher
72 learning.

73 (h) "Student organization" means an officially
74 recognized group at a state institution of higher learning, or a
75 group seeking official recognition, comprised of admitted students



76 that receive, or are seeking to receive, benefits through the
77 institution of higher education as defined in this section.

78 **SECTION 3.** Expressive activities protected under the
79 provisions of this act include, but are not limited to, any lawful
80 verbal, written, audio-visual or electronic means by which
81 individuals may communicate ideas to one another, including all
82 forms of peaceful assembly, protests, speeches and guest speakers,
83 distribution of literature, carrying signs and circulating
84 petitions.

85 **SECTION 4.** The outdoor areas of campuses of state
86 institutions of higher learning in this state shall be deemed
87 public forums for the campus community, and state institutions of
88 higher learning shall not create "free speech zones" or other
89 designated areas of campus outside of which expressive activities
90 are prohibited. State institutions of higher learning may
91 maintain and enforce reasonable time, place and manner
92 restrictions narrowly tailored in service of a significant
93 institutional interest only when such restrictions employ clear,
94 published, content- and viewpoint-neutral criteria, and provide
95 for ample alternative means of expression. Any such restrictions
96 shall allow for members of the campus community to spontaneously
97 and contemporaneously assemble and distribute literature. The
98 public forum protections provided in this section apply only to
99 expressive activities.



100 Nothing in this section shall be interpreted as limiting the
101 right of student expression elsewhere on campus.

102 **SECTION 5.** (1) Any person who wishes to engage in
103 noncommercial expressive activity on campus shall be permitted to
104 do so freely, as long as the person's conduct is not unlawful and
105 does not materially and substantially disrupt the functioning of
106 the state institution of higher learning, subject only to the
107 requirements of Section 4 of this act.

108 (2) Nothing in this section shall prohibit state
109 institutions of higher learning from maintaining and enforcing
110 reasonable time, place and manner restrictions that are narrowly
111 tailored to serve a significant institutional interest only when
112 such restrictions employ clear, published, content and
113 viewpoint-neutral criteria. Any such restrictions shall allow for
114 members of the campus community to spontaneously and
115 contemporaneously assemble, speak and distribute literature.

116 (3) Nothing in this section shall be interpreted as
117 preventing state institutions of higher learning from prohibiting,
118 limiting, or restricting expression that the First Amendment does
119 not protect (e.g. true threats, expression directed to provoke
120 imminent lawless actions and likely to produce it) or prohibit
121 harassment as defined in Section 2 of this act.

122 (4) Nothing in this section shall enable individuals to
123 engage in conduct that intentionally, materially, and
124 substantially disrupts another's expressive activity if that



125 activity is occurring in a campus space reserved for that activity
126 under the exclusive use or control of a particular group.

127 **SECTION 6.** No state institution of higher learning may deny
128 a religious, political or ideological student organization any
129 benefit or privilege available to any other student organization,
130 or otherwise discriminate against such an organization, based on
131 the expression of the organization, including any requirement that
132 the leaders or members of such organization:

133 (a) Affirm and adhere to the organization's sincerely
134 held beliefs;

135 (b) Comply with the organization's standards of
136 conduct; or

137 (c) Further the organization's mission or purpose, as
138 defined by the student organization.

139 **SECTION 7.** State institutions of higher learning shall make
140 public in their handbooks, on their websites, and through their
141 orientation programs for students the policies, regulations and
142 expectations of students regarding free expression on campus
143 consistent with this act.

144 **SECTION 8.** State institutions of higher learning shall
145 develop materials, programs and procedures to ensure that those
146 persons who have responsibility for discipline or education of
147 students, such as administrators, campus police officers,
148 residence life officials, and professors, understand the policies,



149 regulations and duties of state institutions of higher learning
150 regarding free expression on campus consistent with this act.

151 **SECTION 9.** (1) Each state institution of higher learning
152 shall publicly post on their website, as well as annually submit
153 to the Governor and Legislature, by December 1 of each year, a
154 report which will detail the course of action implemented to be in
155 compliance with the requirements of this act. A report shall also
156 be given in the instance of any changes or updates to the chosen
157 course of action. The information required in the report must be:

158 (a) Accessible from the institution's Internet website
159 home page by use of not more than three (3) links;

160 (b) Searchable by keywords and phrases; and

161 (c) Accessible to the public without requiring
162 registration or use of a user name, a password or another user
163 identification.

164 (2) The report shall include:

165 (a) (i) A description of any barriers to or incidents
166 of disruption of free expression occurring on campus, including,
167 but not limited to, attempts to block or prohibit speakers and
168 investigations into students or student organizations for their
169 speech; and

170 (ii) The description shall include the nature of
171 each barrier or incident, as well as what disciplinary action, if
172 any, was taken against members of the campus community determined
173 to be responsible for those specific barriers or incidents. The



174 description of any barrier, incident or disciplinary action shall
175 be reported without revealing those students' personally
176 identifiable information; and

177 (b) Any other information each state institution of
178 higher learning deems valuable for the public to evaluate whether
179 free expression rights for all members of the campus community
180 have been equally protected and enforced consistent with this act.

181 (3) If a state institution of higher learning is sued for an
182 alleged violation of First Amendment rights, a supplementary
183 report with a copy of the complaint, or any amended complaint,
184 must be submitted to the Governor and Legislature within thirty
185 (30) days.

186 **SECTION 10.** Any person or student association aggrieved by a
187 violation of this act may bring an action against the state
188 institution of higher learning and its employees acting in their
189 official capacities, responsible for the violation and seek
190 appropriate relief, including, but not limited to, injunctive
191 relief, monetary damages, reasonable attorneys' fees and court
192 costs. If a court should find a violation of this act, it shall
193 issue an award of at least Five Thousand Dollars (\$5,000.00). Any
194 person or student organization aggrieved by a violation of this
195 act may assert such violation as a defense or counter claim in any
196 disciplinary action or in any civil or administrative proceedings
197 brought against such student or student organization. Nothing in



198 this section shall be interpreted to limit any other remedies
199 available to any person or student organization.

200 **SECTION 11.** A person shall be required to bring suit for
201 violation of this section not later than one (1) year after the
202 day the cause of action accrues. For purposes of calculating the
203 one-year limitation period, each day that the violation persists,
204 and each day that a policy in violation of this section remains in
205 effect, shall constitute a new day that the cause of action has
206 accrued.

207 **SECTION 12.** The state waives immunity under the Eleventh
208 Amendment of the United States Constitution and consents to suit
209 in a federal court for lawsuits arising out of this act. A state
210 institution of higher learning that violates this act is not
211 immune from suit or liability for the violation.

212 **SECTION 13.** If any provision of this act or any application
213 of such provision to any person or circumstance is held to be
214 unconstitutional, the remainder of this act and the application of
215 the provision to any other person or circumstance shall not be
216 affected.

217 **SECTION 14.** This act shall take effect and be in force from
218 and after its passage.

