

House Bill 1 (COMMITTEE SUBSTITUTE)

By: Representatives Bonner of the 72<sup>nd</sup>, Ehrhart of the 36<sup>th</sup>, Jones of the 25<sup>th</sup>, Williams of the 145<sup>th</sup>, Gullett of the 19<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education  
2 generally, so as to provide for public forums at public institutions of higher education within  
3 the University System of Georgia and the Technical College System of Georgia for the  
4 campus community; to prevent the creation of "free speech zones" at such public institutions  
5 of higher education; to allow for reasonable, content- and viewpoint-neutral, and narrowly  
6 tailored time, place, and manner restrictions on expressive activity at public institutions of  
7 higher education; to prohibit material and substantial disruption of protected expressive  
8 activity at public institutions of higher education; to require public institutions of higher  
9 education to provide public notice of rules and expectations regarding expressive activity;  
10 to require public institutions of higher education to develop materials, programs, and  
11 procedures related to expressive activity; to provide for a short title; to provide for  
12 definitions; to provide for related matters; to provide for an effective date; to repeal  
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1 (SUB)

- 1 -

15 **SECTION 1.**

16 Title 20 of the Official Code of Georgia Annotated, relating to education generally, is  
17 amended by repealing Code Section 20-3-48, relating to adoption of free speech and  
18 expression regulations and disciplinary sanctions for interfering with rights, and enacting a  
19 new Code Section 20-3-48 to read as follows:

20 "20-3-48.

21 (a) This part shall be known and may be cited as the 'Forming Open and Robust University  
22 Minds (FORUM) Act.'

23 (b) As used in this part, the term:

24 (1) 'Campus community' means students, administrators, faculty, and staff at the public  
25 institution of higher education and their invited guests.

26 (2) 'Materially and substantially disrupts' means when a person intentionally engages in  
27 conduct or expressive activity which such person knew or reasonably should have known  
28 would significantly hinder another person's or group's expressive activity, prevent the  
29 communication of the person's or group's message, or prevent the transaction of the  
30 business of a lawful meeting, gathering, or procession by:

31 (A) Engaging in fighting, violent, or other unlawful behavior; or

32 (B) Physically blocking, using threats of violence, or creating loud or sustained noise  
33 or vocalization intended to prevent any person from attending, listening to, viewing, or  
34 otherwise participating in an expressive activity.

35 Conduct or expressive activity shall not be considered a material or substantial disruption  
36 if it is protected under the Georgia Constitution or the First Amendment to the United  
37 States Constitution, including, but not limited to, lawful protests in an unrestricted  
38 outdoor area of campus (except during times when those areas have been reserved in  
39 advance for other events) or minor, brief, or fleeting nonviolent disruptions of events that  
40 are isolated and short in duration.

41 (3) 'Public institution of higher education' or 'institution' means any college or university  
42 under the management and control of the Board of Regents of the University System of  
43 Georgia.

44 (4) 'Student' means any person who is enrolled on a full-time or part-time basis in a  
45 public institution of higher education.

46 (5) 'Student-on-student harassment' means unwelcome conduct or expressive activity  
47 directed at a student that is so severe, pervasive, and objectively offensive that a student  
48 is effectively denied equal access to educational opportunities or benefits provided by the  
49 public institution of higher education. This term shall not apply to or govern any  
50 employment policy of a public institution of higher education relating to harassment.

51 (6) 'Student organization' means any association, club, fraternity, society, sorority, or  
52 organized group of students, whether academic, athletic, political, social, or otherwise,  
53 that is officially recognized by a public institution of higher education.

54 (7) 'Unrestricted outdoor area of campus' means any outdoor area of campus that is  
55 generally accessible to members of the campus community, including, but not limited to,  
56 grassy areas, walkways, or other common areas, and does not include outdoor areas when  
57 and where access to members of the campus community is lawfully restricted.

58 (c) Unrestricted outdoor areas of campuses of public institutions of higher education in this  
59 state shall be deemed public forums for the campus community, and public institutions of  
60 higher education shall not create 'free speech zones' or other designated areas of campus  
61 outside of which expressive activities are prohibited for the campus community.

62 (d) Public institutions of higher education may maintain and enforce reasonable time,  
63 place, and manner restrictions for the campus community narrowly tailored in service of  
64 a significant institutional interest only when such restrictions employ clear, published,  
65 content- and viewpoint-neutral criteria, and provide for ample alternative means of  
66 expression. Any such restrictions shall allow for members of the campus community to  
67 spontaneously and contemporaneously assemble and distribute literature. Nothing in this

68 Code section shall be interpreted as limiting the right of student expression elsewhere on  
69 campus.

70 (e) Protected expressive activity under this part consists of speech and other conduct  
71 protected by the First Amendment to the United States Constitution, including, but not  
72 limited to, lawful verbal, written, audio-visual, or electronic expression by which  
73 individuals may communicate ideas to one another, including all forms of peaceful  
74 assembly, distributing literature, carrying signs, circulating petitions, demonstrations,  
75 protests, and speeches including those by guest speakers.

76 (f) Any person who wishes to engage in noncommercial expressive activity in an  
77 unrestricted outdoor area of campus shall be permitted to do so freely, as long as the  
78 person's conduct is not unlawful and does not materially and substantially disrupt the  
79 functioning of the public institution of higher education, subject to restrictions lawfully  
80 imposed under subsections (c) and (d) of this Code section. Nothing in this Code section  
81 shall be construed to make the unrestricted areas of campus into a designated public forum  
82 for persons who are not members of the campus community.

83 (g) Nothing in this part shall be interpreted as preventing public institutions of higher  
84 education from prohibiting student-on-student harassment as defined in this part; from  
85 complying with federal and state laws prohibiting discrimination and harassment; or from  
86 prohibiting, limiting, or restricting expression that is not protected under the Georgia  
87 Constitution or the First Amendment to the United States Constitution, including, but not  
88 limited to, true threats or expressive activity directed to provoke imminent lawless actions  
89 and likely to produce it.

90 (h) Nothing in this part shall enable individuals to engage in conduct that materially and  
91 substantially disrupts another's expressive activity that is occurring in an unrestricted  
92 outdoor area of campus or a campus space reserved for that activity under the exclusive use  
93 or control of a particular group.

94 (i) Public institutions of higher education shall make public in their handbooks, on their  
95 websites, and through their orientation programs for students the policies, regulations, and  
96 expectations of students regarding free expressive activity on campus consistent with this  
97 part.

98 (j) Public institutions of higher education shall develop materials, programs, and  
99 procedures to ensure that those persons who have responsibility for discipline or education  
100 of students, such as administrators, campus police officers, residence life officials, and  
101 professors, understand the policies, regulations, and duties of public institutions of higher  
102 education regarding expressive activity on campus consistent with this part."

103 **SECTION 2.**

104 Said title is further amended by revising Code Section 20-3-48.1, relating to annual report  
105 by board of regents, as follows:

106 "20-3-48.1.

107 The board of regents shall make and publish an annual report and provide a copy to the  
108 Governor and each chamber of the General Assembly on July 1 of each year addressing the  
109 following from the previous calendar year:

110 (1) Any barriers to, or disruptions of, free expression within ~~state~~ public institutions of  
111 higher education;

112 (2) Administrative response and discipline relating to violation of regulations and  
113 policies established pursuant to Code Section 20-3-48;

114 (3) Actions taken by ~~state~~ public institutions of higher ~~learning~~ education, including  
115 difficulties, controversies, or successes, in maintaining a posture of administrative and  
116 institutional neutrality with regard to political or social issues; and

117 (4) Any assessments, criticisms, commendations, or recommendations the board of  
118 regents deems appropriate to further include in the report."

119 **SECTION 3.**

120 Said title is further amended by repealing Code Section 20-3-48.2, relating to reasonable  
121 time, place, and manner restrictions on speech.

122 **SECTION 4.**

123 Said title is further amended in Article 2 of Chapter 4, relating to technical and adult  
124 education, by adding a Code section to read as follows:

125 "20-4-11.1.

126 (a) As used in this Code section, the term:

127 (1) 'Campus community' means students, administrators, faculty, and staff at the public  
128 institution of higher education and their invited guests.

129 (2) 'Materially and substantially disrupts' means when a person intentionally engages in  
130 conduct or expressive activity which such person knew or reasonably should have known  
131 would significantly hinder another person's or group's expressive activity, prevent the  
132 communication of the person's or group's message, or prevent the transaction of the  
133 business of a lawful meeting, gathering, or procession by:

134 (A) Engaging in fighting, violent, or other unlawful behavior; or

135 (B) Physically blocking, using threats of violence, or creating loud or sustained noise  
136 or vocalization intended to prevent any person from attending, listening to, viewing, or  
137 otherwise participating in an expressive activity.

138 Conduct or expressive activity shall not be considered a material or substantial disruption  
139 if it is protected under the Georgia Constitution or the First Amendment to the United  
140 States Constitution, including, but not limited to, lawful protests in an unrestricted  
141 outdoor area of campus (except during times when those areas have been reserved in  
142 advance for other events) or minor, brief, or fleeting nonviolent disruptions of events that  
143 are isolated and short in duration.

144 (3) 'Public institution of higher education' or 'institution' means any postsecondary  
145 technical school or other postsecondary branch of the Technical College System of  
146 Georgia.

147 (4) 'Student' means any person who is enrolled on a full-time or part-time basis in a  
148 public institution of higher education.

149 (5) 'Student-on-student harassment' means unwelcome conduct or expressive activity  
150 directed at a student that is so severe, pervasive, and objectively offensive that a student  
151 is effectively denied equal access to educational opportunities or benefits provided by the  
152 public institution of higher education. This term shall not apply to or govern any  
153 employment policy of a public institution of higher education relating to harassment.

154 (6) 'Student organization' means any association, club, fraternity, society, sorority, or  
155 organized group of students, whether academic, athletic, political, social, or otherwise,  
156 that is officially recognized by a public institution of higher education.

157 (7) 'Unrestricted outdoor area of campus' means any outdoor area of campus that is  
158 generally accessible to members of the campus community, including, but not limited to,  
159 grassy areas, walkways, or other common areas, and does not include outdoor areas when  
160 and where access to members of the campus community is lawfully restricted.

161 (b) Unrestricted outdoor areas of campuses of public institutions of higher education in  
162 this state shall be deemed public forums for the campus community, and public institutions  
163 of higher education shall not create 'free speech zones' or other designated areas of campus  
164 outside of which expressive activities are prohibited for the campus community.

165 (c) Public institutions of higher education may maintain and enforce reasonable time,  
166 place, and manner restrictions for the campus community narrowly tailored in service of  
167 a significant institutional interest only when such restrictions employ clear, published,  
168 content- and viewpoint-neutral criteria, and provide for ample alternative means of  
169 expression. Any such restrictions shall allow for members of the campus community to  
170 spontaneously and contemporaneously assemble and distribute literature. Nothing in this

171 Code section shall be interpreted as limiting the right of student expression elsewhere on  
172 campus.

173 (d) Protected expressive activity under this Code section consists of speech and other  
174 conduct protected by the First Amendment to the United States Constitution, including, but  
175 not limited to, lawful verbal, written, audio-visual, or electronic expression by which  
176 individuals may communicate ideas to one another, including all forms of peaceful  
177 assembly, distributing literature, carrying signs, circulating petitions, demonstrations,  
178 protests, and speeches including those by guest speakers.

179 (e) Any person who wishes to engage in noncommercial expressive activity in an  
180 unrestricted outdoor area of campus shall be permitted to do so freely, as long as the  
181 person's conduct is not unlawful and does not materially and substantially disrupt the  
182 functioning of the public institution of higher education, subject to restrictions lawfully  
183 imposed under subsections (c) and (d) of this Code section. Nothing in this Code section  
184 shall be construed to make the unrestricted areas of campus into a designated public forum  
185 for persons who are not members of the campus community.

186 (f) Nothing in this Code section shall be interpreted as preventing public institutions of  
187 higher education from prohibiting student-on-student harassment as defined in this Code  
188 section; from complying with federal and state laws prohibiting discrimination and  
189 harassment; or from prohibiting, limiting, or restricting expression that is not protected  
190 under the Georgia Constitution or the First Amendment to the United States Constitution,  
191 including, but not limited to, true threats or expressive activity directed to provoke  
192 imminent lawless actions and likely to produce it.

193 (g) Nothing in this Code section shall enable individuals to engage in conduct that  
194 materially and substantially disrupts another's expressive activity that is occurring in an  
195 unrestricted outdoor area of campus or a campus space reserved for that activity under the  
196 exclusive use or control of a particular group.



197 (h) Public institutions of higher education shall make public in their handbooks, on their  
198 websites, and through their orientation programs for students the policies, regulations, and  
199 expectations of students regarding free expressive activity on campus consistent with this  
200 Code section.

201 (i) Public institutions of higher education shall develop materials, programs, and  
202 procedures to ensure that those persons who have responsibility for discipline or education  
203 of students, such as administrators, campus police officers, residence life officials, and  
204 professors, understand the policies, regulations, and duties of public institutions of higher  
205 education regarding expressive activity on campus consistent with this Code section.

206 (j) The State Board of the Technical College System of Georgia shall make and publish  
207 an annual report and provide a copy to the Governor and each chamber of the General  
208 Assembly on July 1 of each year addressing the following from the previous calendar year:

209 (1) Any barriers to, or disruptions of, free expression within public institutions of higher  
210 education;

211 (2) Administrative response and discipline relating to violation of regulations and  
212 policies established pursuant to Code Section 20-3-48;

213 (3) Actions taken by public institutions of higher education, including difficulties,  
214 controversies, or successes, in maintaining a posture of administrative and institutional  
215 neutrality with regard to political or social issues; and

216 (4) Any assessments, criticisms, commendations, or recommendations the board of  
217 regents deems appropriate to further include in the report."

218 **SECTION 5.**

219 This Act shall become effective on July 1, 2022.

220 **SECTION 6.**

221 All laws and parts of laws in conflict with this Act are repealed.