



AN ACT GENERALLY REVISING LAWS RELATED TO FREEDOM OF ASSOCIATION AND FREEDOM OF SPEECH ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE ASSOCIATION ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROHIBITING DISCRIMINATION AGAINST STUDENT ORGANIZATIONS; REQUIRING PUBLIC POSTSECONDARY INSTITUTIONS TO ADOPT ANTI-HARASSMENT POLICIES; PROVIDING RESTRICTIONS ON POLICIES PERTAINING TO THE EXPULSION OF A STUDENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Discrimination against student organizations prohibited. (1) A public postsecondary institution may not deny a religious, political, or ideological student organization a benefit or privilege available to other student organizations or otherwise discriminate against a student organization based on the student organization's expressive activity, including any requirement of the student organization that a leader or member:

- (a) affirm and adhere to the student organization's sincerely held beliefs;
 - (b) comply with the student organization's standards of conduct; or
 - (c) further the student organization's mission or purpose, as defined by the student organization.
- (2) As used in [section 2] and this section, the following definitions apply:
- (a) "Benefit or privilege" means any type of advantage, including but not limited to:
 - (i) recognition;
 - (ii) registration;
 - (iii) the use of facilities of the public postsecondary institution for meetings or speaking purposes;
 - (iv) the use of channels of communication; and
 - (v) funding sources that are otherwise available to other student organizations at the public

postsecondary institution.

(b) "Public postsecondary institution" means:

(i) a unit of the Montana university system as defined in 20-25-201; or

(ii) a Montana community college, defined and organized as provided in 20-15-101.

(c) "Student organization" means an officially recognized group or a group seeking official recognition at a public postsecondary institution that is comprised of students who receive or are seeking to receive a benefit through the public postsecondary institution.

Section 2. Anti-harassment and freedom of speech protections for students. (1) A public postsecondary institution shall adopt a policy prohibiting student-on-student discriminatory harassment. A public postsecondary institution may not enforce the policy by disciplining a student for a behavioral violation of harassment or a similar charge stemming from an alleged violation of the policy for speech or expression unless:

(a) the speech or expression is unwelcome and is so severe, pervasive, and subjectively and objectively offensive that a student is effectively denied equal access to educational opportunities or benefits provided by the public postsecondary institution; or

(b) the speech or expression explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances or requests for sexual favors.

(2) This section may not be construed to prevent a public postsecondary institution from prohibiting, limiting, or restricting speech or expression that is not protected by the first amendment of the United States constitution or Article II, section 7, of the Montana constitution.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 25, part 5, and the provisions of Title 20, chapter 25, part 5, apply to [sections 1 and 2].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in

effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 349, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 349

INTRODUCED BY M. HOPKINS, D. BEDEY, J. FULLER, J. READ

AN ACT GENERALLY REVISING LAWS RELATED TO FREEDOM OF ASSOCIATION AND FREEDOM OF SPEECH ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE ASSOCIATION ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROHIBITING DISCRIMINATION AGAINST STUDENT ORGANIZATIONS; REQUIRING PUBLIC POSTSECONDARY INSTITUTIONS TO ADOPT ANTI-HARASSMENT POLICIES; PROVIDING RESTRICTIONS ON POLICIES PERTAINING TO THE EXPULSION OF A STUDENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.