

116TH CONGRESS
1ST SESSION

H. RES. 191

Expressing the sense of the House of Representatives relating to protecting freedom of speech, thought, and expression at institutions of higher education.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. DAVID P. ROE of Tennessee (for himself, Mr. GAETZ, Mr. McCLINTOCK, Mr. WEBER of Texas, Mr. LOUDERMILK, Mr. BABIN, Mr. FLEISCHMANN, Mr. BYRNE, Mr. LAMBORN, Mr. HUNTER, Mr. GROTHMAN, Mr. GOSAR, Mr. RUTHERFORD, Mr. GIANFORTE, Mr. ALLEN, Mr. HICE of Georgia, Mr. WALBERG, Mr. LUETKEMEYER, Mr. NORMAN, Mr. KELLY of Pennsylvania, Mr. KUSTOFF of Tennessee, and Mr. HUDSON) submitted the following resolution; which was referred to the Committee on Education and Labor, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Expressing the sense of the House of Representatives relating to protecting freedom of speech, thought, and expression at institutions of higher education.

Whereas in *Healy v. James*, 408 U.S. 169 (1972), the Supreme Court of the United States held that the First Amendment applies in full force on public college and university campuses;

Whereas in *Widmar v. Vincent*, 454 U.S. 263 (1981), the Supreme Court of the United States observed that “the

campus of a public university, at least for its students, possesses many of the characteristics of a public forum”;

Whereas lower Federal courts have also held that the open, outdoor areas of public college and university campuses are public forums;

Whereas section 112(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1011a(a)(2)) contains a sense of Congress noting that “an institution of higher education should facilitate the free and open exchange of ideas, students should not be intimidated, harassed, discouraged from speaking out, or discriminated against, students should be treated equally and fairly, and nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association”;

Whereas despite the clarity of the applicable legal precedent and the vital importance of protecting our Nation’s public colleges as true “marketplaces of ideas,” the Foundation for Individual Rights in Education has found that roughly 1 in 10 of America’s top colleges and universities quarantine student expression to so-called “free speech zones,” that more than 20 speakers were disinvited from speaking on campuses in 2016, and a survey of 449 schools found that almost 40 percent maintain severely restrictive speech codes that clearly and substantially prohibit constitutionally protected speech;

Whereas according to the American Civil Liberties Union, “Speech codes adopted by government-financed state colleges and universities amount to government censorship, in violation of the Constitution. And the ACLU believes that all campuses should adhere to First Amendment

principles because academic freedom is a bedrock of education in a free society.”;

Whereas in December 2014, the University of Hawaii at Hilo settled a lawsuit for \$50,000 after it was sued in Federal court for prohibiting students from protesting the National Security Agency, unless those students were standing in the institution’s tiny, flood-prone free speech zone;

Whereas in July 2015, California State Polytechnic University, Pomona, settled a lawsuit for \$35,000 after it was sued in Federal court for prohibiting a student from handing out flyers about animal abuse outside of the school’s free speech zone, comprising less than 0.01 percent of campus;

Whereas in May 2016, a student-plaintiff settled her lawsuit against Texas’ Blinn College for \$50,000 after administrators told her she needed “special permission” to advocate for Second Amendment rights outside of the school’s tiny free speech zone;

Whereas in September 2016, two students from the Kellogg Community College in Battle Creek, Michigan, were arrested for handing out copies of the Constitution while talking with their fellow students on a sidewalk;

Whereas a policy of the Los Angeles Community College District—the largest community college district in the country—declares that all of its campuses “are considered non-public forums, except for those portions of each college designated as Free Speech Areas are hereby designated as limited public forums, which designation may be removed and reverted to non-public forum designation by the Board of Trustees.”;

Whereas in March 2017, a student sued officials of Los Angeles Pierce College and the Los Angeles Community College District after administrators at Pierce College told him that he could not distribute Spanish-language copies of the Constitution on campus unless he was standing in the college's free speech zone, which comprises approximately .003 percent of the total area of Pierce College's 426 acres;

Whereas the States of Virginia, Missouri, Arizona, Kentucky, Colorado, and Utah have passed legislation prohibiting public colleges and universities from quarantining expressive activities on the open outdoor areas of campuses to misleadingly labeled free speech zones;

Whereas free speech zones have been used to restrict political speech from all parts of the political spectrum, and have thus inhibited the free exchange of ideas at campuses across the country; and

Whereas in March 2017, Middlebury College students and protesters from the community prevented an invited speaker from giving his presentation and then attacked his car and assaulted a professor as the two attempted to leave, resulting in the professor suffering a concussion:
Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) free speech zones and restrictive speech
4 codes are inherently at odds with the freedom of
5 speech guaranteed by the First Amendment of the
6 Constitution; and

1 (2) institutions of higher education should fa-
2 cilitate and recommit themselves to protecting the
3 free and open exchange of ideas.

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