

**Author:**

Senator Nieves, Preston - Director of Finance

**Sponsor(s):**

Senator Mack, Christopher

**A Resolution -**

To be Entitled "The Free Speech and Expression Protection Resolution" enacting exemptions to university disciplinary policies for certain first amendment protected activities

**WHEREAS;** Texas State University is a Public Institution, funded by tax dollars from the State of Texas; and

**WHEREAS;** The First Amendment to the United States Constitution and Section 8 of the Texas Constitution grant freedom of speech, press, and expression; and

**WHEREAS:** This precludes state entities, including universities receiving state funding, from engaging in censorship of people based on their political views; and

**WHEREAS:** The need to protect freedom of speech, especially political speech, is paramount to the ability of college campuses to create an environment conducive to learning and free from censorship by institutionalized power including but not limited to the national and state government. The Federal District Court Case *UWM Post v. Board of Regents of the University of Wisconsin* stated in its ruling that "the suppression of speech, even where the speech's content appears to have little value and great costs, amounts to governmental thought control.", and that content-based restrictions on speech "limits the diversity of ideas among students and thereby prevents the "robust exchange of ideas" which intellectually diverse campuses provide"; and

**WHEREAS:** "There is practically universal agreement that a major purpose of [the First] Amendment was to protect the free Page 435 U. S. 777 discussion of governmental affairs." (*Mill v. Alabama*) 384 U. S. 214, 384 U. S. 218 (1966) and Political Speech is "indispensable to decision-making in a democracy" (*Bellotti*, 435 U.S. 765 (1978)); and

**WHEREAS:** Texas State University, like many college campuses has faced controversy and challenge regarding the state of free speech on campus; and

**WHEREAS:** Rules regarding protests flyers, tabling, and access to the campus by outside groups lie at the center of this controversy; and

**WHEREAS:** While reasonable restrictions on time, place, and manner of speech can and should be put in place, it is paramount that these restrictions be equally applicable to all people and viewpoint neutral; and

**WHEREAS:** Student Government passed the immunity acknowledgement resolution in Spring of 2019, with the aim of protecting protesters and faculty from disciplinary action; and

**WHEREAS:** The sentiment behind the legislation was justified, and the rights of protesters need to be protected but the legislation was ambiguous, subjective, and promoted a selective and arguably ideologically motivated exemption to university rules, contributing to the inability of the legislation to actually be enacted; and

**WHEREAS:** Student groups often face high barriers in accessing campus, while outside groups enjoy fully protected first amendment rights; and

**WHEREAS:** Due to the unconstitutional and often counterproductive effects that censorship has, the solution to these challenges is generally more speech, not less; therefore

**BE IT RESOLVED;** That Student Government requests the following change to University Policy; that UPPS No. 07.04.02 Posting/Distribution of Literature, Informational Booths & Banners on Campus be amended to insert the following under 02. Definitions, immediately after 02.15 Table-Tents;

02.16 Political Activism - Any form of speech or expression, whether written spoken or symbolic, that has the sole or primary intent or impact of advocating for or against a position on a political issue or towards a group or person representative of such issue, except as provided by relevant statutes and guidelines pertaining to electioneering under 05 "ELECTIONEERING GUIDELINES".

**BE IT FURTHER RESOLVED:** That Student Government requests the following change to University Policy; that UPPS No. 07.04.02 Posting/Distribution of Literature, Informational Booths & Banners on Campus be amended to insert the following under 07. Compliance, immediately following 07.02

07.03 Political Activism: It shall be a defense against disciplinary action under this policy, if the activity in question

- a) Meets the definition of Political Activism under 02.16
- b) Presented no tangible harm to the University or students, faculty, staff, or anyone associated with the University (such as damage or injury to a structure, plant, or person, or obstructing access to critical/emergency services)
- c) Did not impede upon the rights of any person to engage in lawful activities, including but my no means limited to their ability to exercise their own first amendment rights

**BE IT RESOLVED:** That Student Government requests the following change to University Policy; that UPPS No. 07.04.02 Posting/Distribution of Literature, Informational Booths & Banners on Campus 03. Procedures for Distributing Literature 03.03 be amended to read as follows

03.03 Although not required, it is recommended that persons schedule space for an information booth to ensure adequate accommodations. Persons wishing to schedule space for information booths should submit the request to Student Involvement @ LBJSC, 4th floor, LBJ Student Center. The submission need be required no more than five business days in advance, and shall only be used to give guaranteed space, and not to deny access in instances where space is available.

**BE IT RESOLVED:** That upon passage this legislation be forwarded to the Student Body President for further action