

1                   A bill to be entitled  
2           An act relating to postsecondary education; amending  
3           ss. 1001.03 and 1001.706, F.S.; defining the terms  
4           "intellectual freedom and viewpoint diversity" and  
5           "shield"; requiring the State Board of Education and  
6           the Board of Governors, respectively, to annually  
7           assess intellectual freedom and viewpoint diversity at  
8           certain institutions; providing requirements for the  
9           assessment; authorizing the State Board of Education  
10          to adopt rules; prohibiting the State Board of  
11          Education and the Board of Governors, respectively,  
12          from shielding certain students, faculty, or staff  
13          from certain speech; amending s. 1004.097, F.S.;  
14          defining the term "shield"; providing that certain  
15          faculty communications are protected expressive  
16          activity; prohibiting specified entities from  
17          shielding students, faculty, or staff from certain  
18          speech; authorizing students at public postsecondary  
19          institutions to record video and audio in classrooms  
20          for specified purposes; prohibiting the publication of  
21          certain video or audio recordings; providing  
22          exception; revising available remedies for certain  
23          causes of action to include damages; providing that  
24          such damages and specified costs and fees must be paid  
25          from nonstate funds; providing a cause of action

26 |       against a person who publishes certain video or audio  
 27 |       recordings; providing a limitation on attorney fees;  
 28 |       amending s. 1004.26, F.S.; requiring university  
 29 |       student governments to adopt certain internal  
 30 |       procedures; providing requirements for such  
 31 |       procedures; amending s. 1006.60, F.S.; requiring the  
 32 |       State Board of Education and the Board of Governors to  
 33 |       require certain institutions to adopt codes of  
 34 |       conduct; providing requirements for such codes of  
 35 |       conduct; providing that such codes of conduct include  
 36 |       certain due process rights; providing an effective  
 37 |       date.

38 |

39 | Be It Enacted by the Legislature of the State of Florida:

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41 |       Section 1. Subsection (19) is added to section 1001.03,  
 42 | Florida Statutes, to read:

43 |       1001.03 Specific powers of State Board of Education.—

44 |       (19) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY

45 | ASSESSMENT.—

46 |       (a) For the purposes of this subsection, the term:

47 |       1. "Intellectual freedom and viewpoint diversity" means  
 48 | the exposure of students, faculty, and staff to, and the  
 49 | encouragement of their exploration of, a variety of ideological  
 50 | and political perspectives.

51        2. "Shield" means to limit students', faculty members', or  
52 staff members' access to, or observation of, ideas and opinions  
53 that they may find uncomfortable, unwelcome, disagreeable, or  
54 offensive.

55        (b) The State Board of Education shall require each  
56 Florida College System institution to conduct an annual  
57 assessment of the intellectual freedom and viewpoint diversity  
58 at that institution. The State Board of Education shall select  
59 or create an objective, nonpartisan, and statistically valid  
60 survey to be used by each institution which considers the extent  
61 to which competing ideas and perspectives are presented and  
62 members of the college community, including students, faculty,  
63 and staff, feel free to express their beliefs and viewpoints on  
64 campus and in the classroom. The State Board of Education shall  
65 annually compile and publish the assessments by September 1 of  
66 each year, beginning on September 1, 2022. The State Board of  
67 Education may adopt rules to implement this paragraph.

68        (c) The State Board of Education may not shield students,  
69 faculty, or staff at Florida College System institutions from  
70 free speech protected under the First Amendment to the United  
71 States Constitution, Art. I of the State Constitution, or s.  
72 1004.097.

73        Section 2. Subsection (13) is added to section 1001.706,  
74 Florida Statutes, to read:

75        1001.706 Powers and duties of the Board of Governors.—

76 (13) INTELLECTUAL FREEDOM AND VIEWPOINT DIVERSITY  
 77 ASSESSMENT.—

78 (a) For the purposes of this subsection, the term:

79 1. "Intellectual freedom and viewpoint diversity" means  
 80 the exposure of students, faculty, and staff to, and the  
 81 encouragement of their exploration of, a variety of ideological  
 82 and political perspectives.

83 2. "Shield" means to limit students', faculty members', or  
 84 staff members' access to, or observation of, ideas and opinions  
 85 that they may find uncomfortable, unwelcome, disagreeable, or  
 86 offensive.

87 (b) The Board of Governors shall require each state  
 88 university to conduct an annual assessment of the intellectual  
 89 freedom and viewpoint diversity at that institution. The Board  
 90 of Governors shall select or create an objective, nonpartisan,  
 91 and statistically valid survey to be used by each state  
 92 university which considers the extent to which competing ideas  
 93 and perspectives are presented and members of the university  
 94 community, including students, faculty, and staff, feel free to  
 95 express their beliefs and viewpoints on campus and in the  
 96 classroom. The Board of Governors shall annually compile and  
 97 publish the assessments by September 1 of each year, beginning  
 98 on September 1, 2022.

99 (c) The Board of Governors may not shield students,  
 100 faculty, or staff at state universities from free speech

101 protected under the First Amendment to the United States  
102 Constitution, Art. I of the State Constitution, or s. 1004.97.

103 Section 3. Paragraph (a) of subsection (3) and subsection  
104 (4) of section 1004.097, Florida Statutes, are amended,  
105 paragraph (f) is added to subsection (2), and paragraphs (f) and  
106 (g) are added to subsection (3) of that section, to read:

107 1004.097 Free expression on campus.—

108 (2) DEFINITIONS.—As used in this section, the term:

109 (f) "Shield" means to limit students', faculty members',  
110 or staff members' access to, or observation of, ideas and  
111 opinions that they may find uncomfortable, unwelcome,  
112 disagreeable, or offensive.

113 (3) RIGHT TO FREE-SPEECH ACTIVITIES.—

114 (a) Expressive activities protected under the First  
115 Amendment to the United States Constitution and Art. I of the  
116 State Constitution include, but are not limited to, any lawful  
117 oral or written communication of ideas, including all forms of  
118 peaceful assembly, protests, and speeches; distributing  
119 literature; carrying signs; circulating petitions; faculty  
120 research, lectures, writings, and commentary, whether published  
121 or unpublished; and the recording and publication, including the  
122 Internet publication, of video or audio recorded in outdoor  
123 areas of campus. Expressive activities protected by this section  
124 do not include defamatory or commercial speech.

125 (f) A Florida College System institution or a state

126 university may not shield students, faculty, or staff from  
127 expressive activities.

128 (g) Notwithstanding s. 934.03 and subject to the  
129 protections provided in the Family Educational Rights and  
130 Privacy Act of 1974, 20 U.S.C. s. 1232g and ss. 1002.22 and  
131 1002.225, a student may record video or audio of class lectures  
132 for their own personal educational use, in connection with a  
133 complaint to the public institution of higher education where  
134 the recording was made, or as evidence in, or in preparation  
135 for, a criminal or civil proceeding. A recorded lecture may not  
136 be published without the consent of the lecturer.

137 (4) CAUSE OF ACTION.—A person injured by a violation of  
138 ~~whose expressive rights are violated by an action prohibited~~  
139 ~~under~~ this section may bring an action:

140 (a) Against a public institution of higher education based  
141 on the violation of the individual's expressive rights in a  
142 court of competent jurisdiction to obtain declaratory and  
143 injunctive relief and may be entitled to damages plus court  
144 costs and reasonable attorney fees, which may only be paid from  
145 nonstate funds, reasonable court costs, and attorney fees.

146 (b) Against a person who has published video or audio  
147 recorded in a classroom in violation of paragraph (3)(g) in a  
148 court of competent jurisdiction to obtain declaratory and  
149 injunctive relief and may be entitled to damages plus court  
150 costs and reasonable attorney fees not to exceed \$200,000.

151 Section 4. Paragraph (d) is added to subsection (4) of  
 152 section 1004.26, Florida Statutes, to read:

153 1004.26 University student governments.—

154 (4)

155 (d) Notwithstanding any other provision of law, each  
 156 student government shall adopt internal procedures providing an  
 157 elected or appointed officer of the student government who has  
 158 been disciplined, suspended, or removed from office, the right  
 159 to directly appeal such decision to the vice president of  
 160 student affairs or other senior university administrator  
 161 designated to hear such appeals. The internal procedures shall  
 162 not condition the exercise of such right on the consideration or  
 163 decision of any student panel, including, but not limited to,  
 164 any student judiciary, or place any condition precedent on the  
 165 exercise of such right granted by this paragraph.

166 Section 5. Section 1006.60, Florida Statutes, is amended  
 167 to read:

168 1006.60 Codes of conduct; disciplinary measures; ~~authority~~  
 169 to adopt rules or regulations.—

170 (1) The State Board of Education and the Board of  
 171 Governors, respectively, shall require, each Florida College  
 172 System institution to ~~may~~ adopt, by rule, and each state  
 173 university to ~~may~~ adopt, by regulation, codes of conduct and  
 174 appropriate penalties for violations of rules or regulations by  
 175 students, to be administered by the institution. Such penalties,

176 unless otherwise provided by law, may include: reprimand;  
177 restitution; fines; withholding of diplomas or transcripts  
178 pending compliance with rules or regulations, completion of any  
179 student judicial process or sanction, or payment of fines;  
180 restrictions on the use of or removal from campus facilities;  
181 community service; educational requirements; and the imposition  
182 of probation, suspension, dismissal, or expulsion.

183       (2) The State Board of Education and the Board of  
184 Governors, respectively, shall require, each Florida College  
185 System institution to ~~may~~ adopt, by rule, and each state  
186 university to ~~may~~ adopt, by regulation, a code of conduct and  
187 appropriate penalties for violations of rules or regulations by  
188 student organizations, to be administered by the institution.  
189 Such penalties, unless otherwise provided by law, may include:  
190 reprimand; restitution; suspension, cancellation, or revocation  
191 of the registration or official recognition of a student  
192 organization; and restrictions on the use of, or removal from,  
193 campus facilities.

194       (3) The codes of conduct shall be published on the Florida  
195 College System institution's or state university's website,  
196 protect the rights of all students, and, at minimum, provide the  
197 following due process protections to students and student  
198 organizations:

199       (a) The right to timely written notice. The code must  
200 require that the institution or university provide a student or

201 student organization with timely written notice of the student's  
202 or student organization's alleged violation of the code of  
203 conduct. The notice must include sufficient detail and be  
204 provided with sufficient time to prepare for any disciplinary  
205 proceeding.

206 1. The written notice must include the allegations to be  
207 investigated, the citation to the specific provision of the code  
208 of conduct at issue, the process to be used in determining  
209 whether a violation has occurred and associated rights, and the  
210 date, time, and location of the disciplinary proceeding.

211 2. The written notice is considered timely if it is  
212 provided at least 7 business days before the disciplinary  
213 proceeding and may be provided by delivery to the student's  
214 institutional e-mail address, and if the student is under 18  
215 years of age, to the student's parent or to the student  
216 organization's e-mail address.

217 3. At least 5 business days before the disciplinary  
218 proceeding, the institution or university must provide the  
219 student or student organization with:

220 a. A listing of all known witnesses that have provided, or  
221 will provide, information against the student or student  
222 organization.

223 b. All known information relating to the allegation,  
224 including inculpatory and exculpatory information.

225 (b) The right to a presumption that no violation occurred.

226 The institution has the burden to prove, by a preponderance of  
227 the evidence, that a violation has taken place. Preponderance of  
228 the evidence means that the information presented supports the  
229 finding that it is more likely than not that the violation of  
230 the code of conduct was committed by the student or student  
231 organization.

232 (c) The right to an impartial hearing officer.

233 (d) The right against self-incrimination and the right to  
234 remain silent. Such silence may not be used against the student  
235 or student organization.

236 (e) The right to present relevant information and question  
237 witnesses.

238 (f) The right to an advisor or advocate who may not serve  
239 in any other role, including as an investigator, decider of  
240 fact, hearing officer, member of a committee or panel convened  
241 to hear or decide the charge, or any appeal.

242 (g) The right to have an advisor, advocate, or legal  
243 representative, at the student's or student organization's own  
244 expense, present at any proceeding, whether formal or informal.  
245 Such person may directly participate in all aspects of the  
246 proceeding, including the presentation of relevant information  
247 and questioning of witnesses.

248 (h) The right to appeal the final decision of the hearing  
249 officer, or any committee or panel, directly to the vice  
250 president of student affairs, or any other senior administrator

251 designated by the code of conduct, who must hear the appeal and  
252 render a final decision. The vice president of student affairs  
253 or person designated by the code of conduct to hear the appeal  
254 may not have directly participated in any other proceeding  
255 related to the charged violation.

256 (i) The right to an accurate and complete record of every  
257 disciplinary proceeding relating to the charged violation of the  
258 code, including record of any appeal, to be made, preserved, and  
259 available for copying upon request by the charged student or  
260 student organization.

261 (j) A provision setting a time limit for charging a  
262 student or student organization with a violation of the code of  
263 conduct, and a description of those circumstances in which that  
264 time limit may be extended or waived.

265 (4)(3) Sanctions authorized by such codes of conduct may  
266 be imposed only for acts or omissions in violation of rules or  
267 regulations adopted by the institution, including rules or  
268 regulations adopted under this section, rules of the State Board  
269 of Education, rules or regulations of the Board of Governors  
270 regarding the State University System, county and municipal  
271 ordinances, and the laws of this state, the United States, or  
272 any other state.

273 (5)(4) Each Florida College System institution may  
274 establish and adopt, by rule, and each state university may  
275 establish and adopt, by regulation, codes of appropriate

276 penalties for violations of rules or regulations governing  
277 student academic honesty. Such penalties, unless otherwise  
278 provided by law, may include: reprimand; reduction of grade;  
279 denial of academic credit; invalidation of university credit or  
280 of the degree based upon such credit; probation; suspension;  
281 dismissal; or expulsion. In addition to any other penalties that  
282 may be imposed, an individual may be denied admission or further  
283 registration, and the institution may invalidate academic credit  
284 for work done by a student and may invalidate or revoke the  
285 degree based upon such credit if it is determined that the  
286 student has made false, fraudulent, or incomplete statements in  
287 the application, residence affidavit, or accompanying documents  
288 or statements in connection with, or supplemental to, the  
289 application for admission to or graduation from the institution.

290 (6)~~(5)~~ Each Florida College System institution shall adopt  
291 rules and each state university shall adopt regulations for the  
292 lawful discipline of any student who intentionally acts to  
293 impair, interfere with, or obstruct the orderly conduct,  
294 processes, and functions of the institution. Said rules or  
295 regulations may apply to acts conducted on or off campus when  
296 relevant to such orderly conduct, processes, and functions.

297 Section 6. This act shall take effect July 1, 2021.