
“Dis-invitations” to Speak on Campus

“Protesters at the University of California, Berkeley caused over \$100,000 in damage and several injuries while violently protesting an appearance ... causing the event to be canceled. Only three arrests were made by police.... Students at Middlebury College in Vermont disrupted an event ... forcing the event to be relocated and live-streamed from a private, remote location. Protesters became aware of the new location and attacked [a professor and the speaker], sending [the speaker] to the emergency room.”

– Greg Lukianoff, FIRE President and CEO, Testimony to U.S. House Subcommittee on the Constitution and Civil Justice

Dis-invitation is the increased demand by college students and faculty that speakers with whom they disagree must not be allowed to speak on campus. Activists first targeted speakers at commencements, but, now, 80 percent of the protests are on college campuses, where administrators often defy the Constitution and revoke or withdraw the speaker’s invitation.

Offenses against the Elderly Become Felonies

H.B. 803 passed the Senate unanimously, with only one dissenting vote in the House. When Governor Deal signed it May 7th; it became Act 419, which takes effect July 1st.

H.B. 803 classifies as crimes coercion, misuse of controlled substances, deception, isolation or exploitation, if they are perpetrated against disabled adults or the elderly or any resident. The bill defines each offense as a felony, punishable by one-to-20 years in prison and a \$100,000 fine. Each violation will be judged as a separate offense.

A 2017 report by the MetLife Mature Market Institute, estimated that victims of elder financial abuse and exploitation lose over \$2.9 billion per year. When another study added fraud to that, the loss increased to \$36.5 billion annually. Elders report financial exploitation much more often than they report abuse or neglect. Of the 39 states and D.C. that addressed the issue last year, 24 passed laws or resolutions to protect the elderly and vulnerable adults.

To avoid becoming victims, elders are encouraged to personally control, post and open their own mail, refuse to give personal information over the phone, communicate with others on their own phone, and learn what rights they have when dealing with their professional or family caregivers. A call to 911 or police is suggested as a way to clarify situations. Although the many forms of elder abuse result in a 300 percent higher risk of death, the passage of H.B. 803 should improve the situation for Georgia elders.

Unreasonable Legislative Outcomes

- When AIDS, an incurable disease, became epidemic, a committee of the General Assembly studied the issue and developed legislation that, astonishingly, (a) does not require the tracking of sexual contacts of AIDS-positive patients; and (b) made it illegal for physicians to inform a patient’s spouse whether the HIV/AIDS test had occurred or was positive.
- In recent years Georgia legislators deleted a law that required parents to be notified if their minor child is diagnosed with HIV/AIDS. Then, this year, legislators refused to pass H.B. 737 that required court ordered HIV, hepatitis B, or hepatitis C blood tests for law officers who might be exposed while making a lawful arrest.

Speech Codes and Georgia Colleges

“Simply put, the overwhelming majority of speech is protected by the First Amendment....[T]he Supreme Court has carved out a limited number of narrow exceptions to the First Amendment: (1) speech that incites reasonable people to immediate violence; (2) so-called ‘fighting words’ (face-to-face confrontations that lead to physical altercations); (3) harassment; (4) true threats and intimidation; (5) obscenity; and (6) defamation. If the speech in question does not fall within one of these exceptions, it most likely is protected speech.”

– The Foundation for Individual Rights in Education (FIRE) [Enumeration added]

S.B. 339, Establish Free Speech Policies for Institutions, passed and became Act 557 when Governor Deal signed it on May 8th. However its intent, as indicated in the title of the bill, did not survive the legislative process. Therefore, subsequent legislation must be introduced, passed and enacted to protect Georgia college and university students’ First Amendment rights.

Foundation for Individual Rights in Education¹ (FIRE) is a nonprofit organization that defends liberty, freedom of speech, due process, freedom of conscience, academic freedom, and legal equality on America’s college campuses. FIRE focuses on monitoring and working with public institutions, primarily, although private campuses are assessed, as well.

The constitutional responsibilities of public and private institutions of higher learning differ as follows: Since **Public colleges and universities** are state agents (government extensions), they are legally bound to respect the constitutional rights of their students. **Private universities** are not directly bound by the First Amendment, which limits only government action, but are legally required to provide what they promise, without fraud or breach of contract, and should be held to the standard they create, whether that standard is religious, moral or otherwise.

FIRE: Free Speech Status Indicators

- **Speech Code of the Month²** Designates a school with extremely restrictive speech codes
- **Red Light** Designates institutions with at least one policy that clearly and substantially restricts the freedom of speech
- **Yellow Light** Designates institutions with more limited restrictive policies, or vaguely-worded policies that could be interpreted to restrict free speech
- **Green Light** Schools with no apparent serious threat to students’ freedom of speech

“Emory University gets ‘green-light’ free-speech rating from FIRE,” by Sasha Volokh, December 5, 2017, announced Emory³ as one of 37 university recipients nationwide that were awarded a green light by FIRE. Volokh explained, “At Emory, [getting a green light award] was really just a matter of cleaning up stray, outdated, or mistaken language.”

A **Yellow Light rating** was awarded **the University of North Georgia** in Dahlonega due to at least one policy that too easily encourages administrative abuse and arbitrary application.

The Speech Code of the Month for September 2017 was awarded **Middle Georgia State University** where only one “Free Expression Area” is allowed at each of its five locations. On the main campus in Macon expressive activity is limited to “the lawn between the Education Building and the Library,” only “Monday through Friday.” Since such regulations are neither reasonable nor narrowly tailored, courts have repeatedly rejected them. Despite that, FIRE found that one-tenth of the 449 schools surveyed continue to maintain restricted speech zones.

¹ Daniel Burnett, Communications Manager, FIRE, 215 717-3473; media@thefire.org

² Although Speech Code of the Month indicates extremely egregious restrictions, FIRE does not mention its color code.

³ Emory University has received the only green-light status in Georgia.

Speech Codes: University of Georgia and Georgia Tech

Yellow Light¹ Awards

Yellow Light **University of Georgia** earned a yellow-light status for having at least one ambiguous policy that too easily encourages administrative abuse and arbitrary application

Yellow Light **Georgia Institute of Technology** garnered national attention in the years of 2006 – 2008 for restrictive speech policies. During that time, the dean of Tech explained the institutional attitude this way, “Ruth², students have been indoctrinated for the first 18 years of their lives by their parents and by their churches; we only have four years to undo the damage.”

FIRE Defines Yellow Light Award

“A ‘yellow light’ institution is one whose policies restrict a more limited amount of protected expression, or by virtue of their vague wording, could too easily be used to restrict protected expression. For example, a ban on ‘posters containing references to alcohol or drugs’ violates the right to free speech because it unambiguously restricts speech on the basis of content and viewpoint, but its scope is very limited.

“Alternatively, a policy banning ‘verbal abuse’ could be applied to prohibit a substantial amount of protected speech, but is not a clear violation because ‘abuse’ might refer to unprotected speech, such as threats of violence or harassment as defined in the common law. In other words, the extent of the threat to free speech depends on how such a policy is applied.”

Green Light Awards in 2018

Green Light: No apparent serious threat to free speech of students

In March, California’s **Claremont McKenna College** became the first in that state to earn a green light award. A Durham, N.H. article of May 14, 2018 reported the **University of New Hampshire** as the 40th institution in the country to earn the Foundation for Individual Rights in Education’s highest rating for free speech. To obtain the green light award, the UNH revised five speech codes that included a demonstration policy and a posting policy, signifying that its written policies do not imperil free speech. Another New Hampshire green light recipient is **Plymouth State University** that became the third green light rating this year.

Starting in 2017, a special counsel to the University System of New Hampshire worked with FIRE’s Vice President of Policy Reform to revise a civility code, a residence hall policy, and a bias incident protocol to raise the system’s status from a yellow light to the green light.

Nationally, about one third of institutions³ earn a red light rating for maintaining at least one policy that both clearly and substantially restrict freedom of speech. Almost 60 percent earn a yellow light rating, according to a 2018 FIRE report.

There are instances where the written policy at issue may be constitutional – for example, a prohibition on “incitement” – but its application may not be constitutional. Some written policies will purport to be a legitimate ban on a category of unprotected speech like harassment or true threats, but (either deliberately or through poor drafting) will encompass free speech as well. In order to recognize when they are being misapplied, it’s important to understand what these narrow exceptions to free speech actually mean.

¹ Source of information: The Foundation for Individual Rights in Education (FIRE)

² Ruth Mulhota, activist for free speech as a Georgia Tech student, testified in committee to support S.B. 339 in 2018

³ For status of other institutions, see FIRE Report: Spotlight on Speech Codes 2018

Governor Vetoes 21 Bills on May 8th

“Except as otherwise provided in this Constitution, before any bill or resolution shall become law, the Governor shall have the right to review each bill or resolution intended to have the effect of law which has been passed by the General Assembly. The Governor may veto, approve, or take no action on any such bill or resolution. In the event the Governor vetoes any such bill or resolution, the General Assembly may, by a two-thirds’ vote, override such veto as provided in Article III of this Constitution.”

– Constitution of the State of Georgia, Article V., Section II, Paragraph IV

The above constitutional provision explains Governor Deal’s veto power, but does not mention that Georgia governors have 40 days after the session to veto or sign legislation. Bills that pass become law on July 1st, with or without the governor’s signature, unless they are vetoed. If two-thirds of the House and Senate were to over-ride a veto, the bill would become law. Governor Deal waited until the last day of his 40-day period to veto the following 21 bills.

Chronological Order of Bills Vetoes on May 8th

H.B. 354 Revise the Georgia International Maritime Trade Center Authority (GIMTCA) Law

H.B. 410 Home Owners Associations and Property Owners

H.B. 441 Spendthrift Trusts, a.k.a. Self-Settled Asset Protection Trusts

H.B. 507 City of Jonesboro, Create Districts for Member Elections

H.B. 508 City of Morrow Governing Authority

H.B. 549 City of Lovejoy, Clayton County, Provide for Governing Authority

H.B. 550 City of Lake City, Provide for Governing Authority

H.B. 586 Charter the City of Reynolds

(Error in date, should have been 2018, was 2017)

H.B. 600 Charter of the City of Stonecrest: Term Limits for Mayor

(Limited mayor’s terms, but, expressly, allowed unlimited terms for councilmembers.)

H.B. 754 Insurers Domiciled in Georgia, May Divide

H.B. 795 Worker’s Compensation Policy

(Gave two House committees and a Senate committee control over Worker’s Comp)

H.B. 870 Annex Fulton County Industrial District into the City of South Fulton (FCID)

(A local constitutional amendment of 1979 prohibits FCID annexation by any municipality.)

H.B. 912 Spalding County State Court, Additional Fees in Guilty or Nolo Contendere Plea

(Proposed fees may be burdensome to defendants, such as a failure-to-appear fee up to \$100.00)

H.B. 942 Create Savannah Farmers Market Commission

(Unconvinced of a need for change, the Governor honored the role of local government in the matter.)

H.B. 995 Local Government Contracts with Private Consultants, Provide More Transparency

H.B. 1039 Create the Big Canoe Water and Sewer Authority (Sponsors requested the veto.)

H.B. 1047 Washington County State Court, \$15 Surcharge (to each fine paid in court)

S.B. 315 Create Crime of Unauthorized Computer Access to Strengthen Cyber Security Laws

S.B. 338 Administrative Procedure Act, Modify Agency Rule-Making Requirements

S.B. 342 Owner Retains Possession of Vehicle whose revalidation decal is not affixed

S.B. 357 Creates Several Unnecessary Additional Levels of Government

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