



# HOUSE BILL 527: Restore/Preserve Campus Free Speech.

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	August 11, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Drupti Chauhan Staff Attorney
<b>Analysis of:</b>	S.L. 2017-196		

**OVERVIEW:** *S.L. 2017-196 requires the Board of Governors of the University of North Carolina to develop, adopt, and implement various policies related to free expression and to form a committee on free expression, which must make annual reports to the Board of Governors, the General Assembly, and the Governor.*

*The act became effective June 30, 2017. The initial annual report of the Committee on Free Expression is due by September 1, 2018.*

**PRIOR LAW:** No statutes addressed free speech at the constituent institutions of the University of North Carolina. The Board of Governors had adopted a broad policy that "supports and encourages freedom of inquiry for faculty members and students"; protects faculty and students "in their responsible exercise of the freedom to teach, to learn, and otherwise to seek and speak the truth"; and charges faculty and students with the responsibility of maintaining a respectful community in which academic freedom flourishes. Within that framework, constituent institutions may create their own policies that comply with the First Amendment.

### BILL ANALYSIS:

**Section 1** of the act requires the Board of Governors of The University of North Carolina to develop, adopt, and implement various policies related to free expression.

G.S. 116-300 requires adoption of a system-wide policy on free expression that includes at least the following:

- A statement that the primary function of each constituent institution is the discovery of knowledge and that function can only be fulfilled by the fullest degree of intellectual freedom and free expression.
- A statement it is not the proper role of a constituent institution to shield individuals from speech protected by the First Amendment.
- A prohibition on the constituent institutions taking action that requires students, faculty, or administrators to express a given view of social policy.
- A guarantee that students and faculty have the right to discuss any problem, limited only by narrowly-tailored, content-neutral, time, place, and manner restrictions, as well as the right to engage in spontaneous demonstrative activity that is not illegal or substantially disruptive.
- A statement that access to campus for the purpose of free expression will be consistent with First Amendment jurisprudence

Karen Cochrane-Brown  
Director



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Legislative Analysis  
Division  
919-733-2578

*This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.*

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- The right of any invited speaker to be on campus, subject to reasonable time, place, and manner restrictions.
- The implementation of a disciplinary process for individuals accused of interfering with the protected free expression rights of others. All students accused under this process have the right 1) to have notice of the charges against them, 2) to review evidence against them, 3) to confront witnesses against them, 4) to present a defense and call witnesses, 5) to have assistance of counsel, and 6) to receive a decision from an impartial arbiter or panel, which may be appealed.

G.S. 116-301 directs the Board of Governors to create a Committee on Free Expression, which must report annually to the Board of Governors, the General Assembly, and the governor on the following:

- Any barriers to, or disruptions of, free expression.
- A description of administrative handling of those disruptions or barriers.
- A description of the efforts to maintain institutional neutrality regarding political or social issues.
- Any assessments, criticisms, commendations, or recommendations the committee sees fit to include.

G.S. 116-302 requires policies on free expression to be included in freshman orientation at constituent institutions.

G.S. 116-303 allows the Board of Governors and constituent institutions to adopt additional policies, including policies restricting expressive activity not protected by the First Amendment.

G.S. 116-304 exempts from personal liability members of the boards of trustees, chancellors, officers, or other employees of constituent institutions, as well as the President, officers, employees, and members of the Board of Governors of the University of North Carolina for actions taken pursuant to their official duties.

**Section 2** of the act requires the Board of Governors to develop a policy requiring each constituent institution to identify the individual responsible for ensuring compliance with this act. This policy shall require that individual to receive training developed and provided by the University of North Carolina School of Government.

**EFFECTIVE DATE:** The act became effective June 30, 2017. The initial annual report of the Committee on Free Expression is due by September 1, 2018.