

TEXAS  STATE  
UNIVERSITY

*The rising STAR of Texas*

SG Legislation  
received by: *KW*  
received date: *10/16/19*

MEMORANDUM

TO: Dean of Students Dr. Margarita Arellano  
Assistant Dean of Students Kathryn Weiser

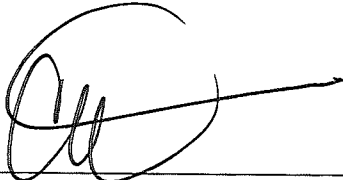
DATE: Tuesday, October 1, 2019

FROM: Corey Benbow, Student Body President *(B)*

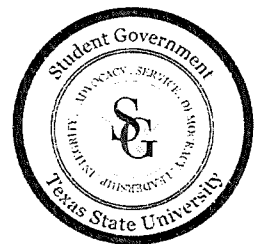
SUBJECT: S.R. 16 The Free Speech and Expression Protection Resolution

I approve of this legislation passed by the Student Government Senate which is Enacting exemptions to university disciplinary policies for certain first amendment protected activities

X

  
\_\_\_\_\_  
Corey F. Benbow

Student Body President '19-20



STUDENT GOVERNMENT

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*Texas State University was founded in 1899.*

MEMBER THE TEXAS STATE UNIVERSITY SYSTEM

**Author:**

Senator Nieves, Preston - Director of Finance

**Sponsor(s) :**

Senator Mack, Christopher

Senator Thigpen, Collin

**Date of First Reading: August 26, 2019**

**S.R.2019.2020.16**

**A Resolution -**

To be known as "A Resolution Calling on the University to Amend the university policy on Posting/Distribution of Literature, Informational Booths & Banners on Campus," which calls on the university to implement exemptions to university disciplinary policies for certain First Amendment protected activities.

1 **WHEREAS;** Texas State University is a public institution, funded  
2 by tax dollars from the state of Texas; and

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

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

9 **WHEREAS:** The need to protect freedom of speech, especially  
10 political speech, is paramount to the ability of college  
11 campuses to create an environment conducive to learning and free  
12 from censorship by institutionalized power including, but not  
13 limited to, the national and state government. The Federal

14 District Court Case, *UWM Post v. Board of Regents of the*  
15 *University of Wisconsin*, stated in its ruling that "the  
16 suppression of speech, even where the speech's content appears  
17 to have little value and great costs, amounts to governmental  
18 thought control.", and that content-based restrictions on speech  
19 "limits the diversity of ideas among students and thereby  
20 prevents the "robust exchange of ideas," which intellectually  
21 diverse campuses provide"; and

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

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

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

34 **WHEREAS:** While reasonable restrictions on time, place, and  
35 manner of speech can and should be put in place, it is paramount

36 that these restrictions be equally applicable to all people and  
37 viewpoint neutral; and

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

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

47 **WHEREAS:** Student groups often face high barriers in accessing  
48 campus, while outside groups enjoy fully protected First  
49 Amendment rights; and

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

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

58 07.03 It will be a defense against disciplinary action under this policy, if the  
59 activity in question is:

- 60 a) Not unlawful.
- 61 b) Presented no tangible harm to the University or students, faculty, staff, or  
62 anyone associated with the University (such as damage or injury to a  
63 structure, plant, or person, or obstructing access to critical/emergency  
64 services).
- 65 c) Did not impede upon the rights of any person to engage in lawful activities,  
66 including but by no means limited to their ability to exercise their own first  
67 amendment rights.
- 68 d) Where the act has not (i) threatened, caused violent conduct, or  
69 individualized harm to a person(s) (ii) harassed, or (iii) incited unlawful  
70 acts on the basis of an individual's race, color, religion, national origin,  
71 gender, gender identity or gender expression, age, disability, citizenship,  
72 veteran status, sexual orientation, ideology, political views, or political  
73 affiliation.
  - 74 i. Any such incident that falls under section d, while potentially non-  
75 criminal should be reported to the university immediately through  
76 their Bias Response Protocol reporting system and is grounds for  
77 university disciplinary sanction of students, faculty, or staff and  
78 removal from university property for members of the general  
79 public.

80 **BE IT RESOLVED:** That Student Government requests the following  
81 change to University Policy; that UPPS No. 07.04.02  
82 Posting/Distribution of Literature, Informational Booths &  
83 Banners on Campus 03. Procedures for Distributing Literature  
84 03.03 be amended to read as follows:

85 03.03: Although not required, it is recommended that persons schedule space for  
86 an information booth to ensure adequate accommodations. Persons wishing to  
87 schedule space for information booths should submit the request to Student  
88 Involvement @ LBJSC, 4th floor, LBJ Student Center. The submission need be  
89 required no more than five business days in advance, and will only be used to give  
90 guaranteed space, and not to deny access in instances where space is available.  
91 Where the information booth does not conform to the University's shared values  
92 of a supportive environment, civility, compassion, fairness, respect, and  
93 nonviolent and ethical behavior and is reported to be in violation of 7.03 (d)(i) the  
94 privilege of reserving space may be revoked.

95 **BE IT RESOLVED:** That Student Government recommends the following  
96 change to University Policy 07.04.05 "ASSEMBLY ACTIVITIES INVOLVING  
97 AMPLIFIED SOUND, EXHIBITS, AND ERECTING SYMBOLIC STRUCTURES" be  
98 amended to include the following in Section 04. "PROCEDURES FOR  
99 EXCEPTIONS, APPEALS, AND VIOLATIONS OF THIS POLICY" immediately  
100 after Section 04.01 to read:

101 Student Involvement @ LBJSC or the assistant vice president for Academic  
102 Affairs, Round Rock Campus, or designee, has the authority to grant exceptions  
103 or variances to the provision of this policy to meet the exigencies of unusual  
104 circumstances. No person or organization may conduct any of the activities  
105 governed by this policy in variance to the policies stated herein without express  
106 permission from Student Involvement @ LBJSC or the assistant vice president for  
107 Academic Affairs, Round Rock Campus, or designee. Only content neutral  
108 criteria may be used to determine whether or not an activity or activities in  
109 question qualifies as “unusual circumstances” when granting exceptions to  
110 disciplinary actions.

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