

HOUSE BILL NO. 1503

Introduced by

Representatives K. Koppelman, Becker, M. Johnson, Satrom

Senators Dever, Dwyer, Holmberg

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact section 15-10.4-03 of the North Dakota Century Code,
2 relating to higher education student and faculty free speech; to amend and reenact section
3 15-10.4-02 of the North Dakota Century Code, relating to free speech policies of institutions
4 under the control of the state board of higher education; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 15-10.4-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15-10.4-02. Adoption of campus free speech policy.**

9 ~~By August 27, 2019, the~~

10 The state board of higher education and each institution shall adopt a policy that:

- 11 1. Protects students' rights to free speech, assembly, and expression;
- 12 2. Permits institutions to establish and enforce reasonable and constitutional time, place,
13 and manner restrictions on free speech, assembly, and expression;
- 14 3. ~~Permits students, faculty, or student organizations to invite guest speakers or groups~~
15 ~~to present regardless of the viewpoint or content of the anticipated speech of the guest~~
16 ~~speaker or group; and~~
- 17 4. Protects the academic freedom and free speech rights of faculty while adhering to
18 guidelines established by the American association of university professors:

19 ~~Upon adoption of the policies under this section, the state board of higher education shall~~
20 ~~provide a copy of the policies to the legislative management; and~~

21 4. Complies with the following principles of free speech:

- 22 a. An institution shall maintain the generally accessible, open, outdoor areas of the
23 institution's campus as traditional public forums for free speech by students.

1 faculty, and invited guests, subject to reasonable time, place, and manner
2 restrictions;

3 b. An institution may not restrict students' free speech to particular areas of campus,
4 sometimes known as "free speech zones";

5 c. An institution may not deny student activity fee funding to a student organization
6 based on the viewpoints the student organization advocates;

7 d. An institution may not establish permitting requirements prohibiting spontaneous
8 outdoor assemblies or outdoor distribution of literature, except an institution may
9 maintain a policy granting an individual or organization the right to reserve the
10 exclusive use of certain outdoor spaces, and may prohibit spontaneous
11 assemblies or distribution of literature inside reserved outdoor spaces;

12 e. An institution may not charge students or student organizations security fees
13 based on the content of the student's or student organization's speech, the
14 content of the speech of guest speakers invited by students, or the anticipated
15 reaction or opposition of listeners to the speech. Any security fees charged to a
16 student or student organization may not exceed the actual costs incurred by the
17 institution, and the institution shall refund any overpayment. Institutions shall set
18 forth empirical and objective criteria for calculating security fees and shall make
19 the criteria available to the public;

20 f. An institution shall allow students, student organizations, and faculty to invite
21 guest speakers to campus to engage in free speech regardless of the views of
22 the guest speakers or viewpoint or content of the anticipated speech;

23 g. An institution may not retract or compel a student, student organization, or faculty
24 member to retract a guest speaker's invitation to speak at the institution based on
25 the guest speaker's viewpoints or the content of the anticipated speech; and

26 h. An institution may not discriminate against a student organization with respect to
27 a benefit available to any other student organization based on a requirement of
28 the organization that leaders or voting members of the organization:

29 (1) Adhere to the organization's viewpoints or sincerely held beliefs; or

30 (2) Be committed to furthering the organization's beliefs or religious missions.

1 **SECTION 2.** Section 15-10.4-03 of the North Dakota Century Code is created and enacted
2 as follows:

3 **15-10.4-03. Cause of action.**

4 The attorney general or a person whose expressive rights are violated by an action that is
5 not compliant with the law may bring an action in a court of competent jurisdiction to recover
6 compensatory damages and reasonable court costs. If the court finds a violation of the law, the
7 court shall award the aggrieved party a minimum of five thousand dollars. Excluding reasonable
8 court costs, the total compensatory damages in a case arising from a single violation of this
9 section may not exceed twenty-five thousand dollars, regardless of the number of plaintiffs
10 awarded damages. If there are multiple plaintiffs in an action under this section, the court shall
11 divide any compensatory damages equally among the plaintiffs.