



# FIRE QUARTERLY



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# COMPREHENSIVE CAMPUS FREE SPEECH BILL BECOMES LAW IN TENNESSEE

● NASHVILLE, TENNESSEE ●

On May 9, Tennessee Gov. Bill Haslam signed into law Senate Bill 723, the Campus Free Speech Protection Act, a comprehensive law that provides some of the country’s strongest protections for student and faculty speech on public college campuses. FIRE is grateful to Sen. Doug Overbey and Rep. Eddie Smith for championing this legislation, and to Reps. Martin Daniel and John Ragan for initiating the conversation last year in the Tennessee General Assembly.

“FIRE is happy Tennessee legislators addressed so many of the concerns we have raised over the years with this legislation,” said FIRE’s Legislative and Policy Director Joe Cohn. “Protecting the free speech rights of students and faculty on public college campuses across Tennessee is an important victory for everyone who cares about the future of higher education.”

The new law has several provisions that will ensure that free speech thrives on public campuses throughout Tennessee. The law will:

- Require institutions to adopt policies consistent with the University of Chicago’s Free Speech Policy Statement;
- prohibit the use of misleadingly labeled “free speech zones”;
- define student-on-student harassment in a way that is consistent with the definition provided by the Supreme Court of the United States in *Davis v. Monroe County Board of Education*;
- bar institutions from rescinding invitations to speakers invited by students or faculty;
- prohibit viewpoint discrimination in the allocation of student fees to student organizations; and



TENNESSEE STATE CAPITOL

- protect faculty from being punished for speech in the classroom, unless the speech is both “not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.”

The bill passed with overwhelming bipartisan support in the Tennessee House of Representatives by a vote of 85-7, and prevailed on a unanimous 30-0 vote in the Senate.

## “Protecting the free speech rights of students and faculty on public college campuses across Tennessee is an important victory for everyone who cares about the future of higher education.”

JOE COHN, FIRE LEGISLATIVE AND POLICY DIRECTOR

“SB 723 is the most comprehensive state legislation protecting free speech on college campuses that we’ve seen be passed anywhere in the country,” said Robert Shibley, FIRE’s executive director. “It is gratifying to see the Tennessee legislature take decisive action to

protect the expressive rights of students and faculty, especially in light of the number of restrictive speech codes across the country and the recent controversies over speech on campus.”

Tennessee is not alone. This year campus free speech bills became law in **Colorado, North Carolina, and Utah**. Other states around the country are considering campus free speech laws too. For example, legislation is currently pending in **California, Michigan, New York, Washington, and Wisconsin**.

This year, protections for student journalists have also made their way through state legislatures. Although **Arizona** Gov. Doug Ducey vetoed one such bill, Gov. Brian Sandoval of **Nevada**, Gov. Phil Scott of **Vermont**, and Gov. Gina Raimondo of **Rhode Island** each signed legislation patterned after the Student Press Law Center’s New Voices Act. 🗳️



BILL HASLAM, TENNESSEE GOVERNOR



# HARVARD STUDENTS, FACULTY, ALUMNI VOW FIGHT AGAINST ‘DEEPLY DISTURBING’ SOCIAL CLUB BAN

● CAMBRIDGE, MASSACHUSETTS ●

Members of the Harvard community are pushing back against a proposal that would ban Harvard students from joining any exclusive social club.



HARVARD UNIVERSITY

A July 5 report, released by a faculty committee that had been expected to dial back last year’s controversial policy to sanction single-gender clubs, instead doubled down, urging Harvard to ban students from joining all off-campus exclusive social clubs due to their “pernicious influence.” If enacted, noncompliance would prompt formal punishment.

“In the face of a regressive crusade by the Harvard administration to remake human interaction in its own ideological image, action must be taken,” urged the Harvard College Open Campus Initiative, a student group advocating for campus free expression, in a Facebook post. “Push back. Don’t let them do it.”

Others expressed similar outrage.

“When I found my sorority on campus, I found a place where women from different academic fields, political affiliations, interests, and backgrounds came together solely to support one another,” said Camille N’Diaye-Muller, a Harvard sorority president. “It’s been the only place where I have not been afraid to be authentic and honest, and that I did not feel that my value was tied to anything other than being myself.”

The Harvard Crimson reported that at least

two clubs, the Fly Club and the Fox Club, appeared to be actively considering legal action. FIRE co-founder and board member

**“In the face of a regressive crusade by the Harvard administration to remake human interaction in its own ideological image, action must be taken.”**

HARVARD COLLEGE OPEN CAMPUS INITIATIVE

Harvey Silverglate, who represents the Fly Club in his role as a private attorney, confirmed the club will fight to protect its autonomy.

“This unseemly power-grab should take away the breath of anyone interested in the strength of our system of higher education and who is committed to the notion that it is the job of a liberal arts college to educate, not to tyrannize, not to micro-manage the private lives of, undergraduates,” said Silverglate.

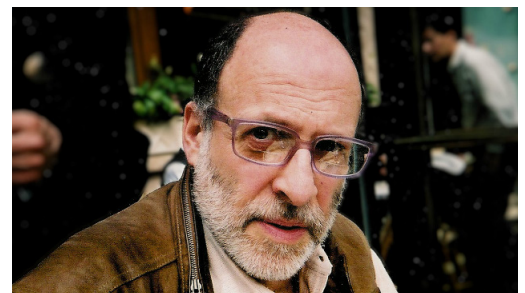
Faculty members are also weighing in. Professor Harry Lewis, former dean of Harvard College and author of last year’s faculty motion criticizing the single-gender

sanctions, wrote on his personal blog:

“The recommendation manages to put Harvard in a position that combines arrogance with insecurity. The University would suspend ordinary freedom of association rights so that Harvard can pick which off-campus clubs students can join. And at the same time the report displays a lack of confidence in Harvard’s mission to educate students to make choices for themselves. Instead Harvard would do the easy thing: make a law and punish the nonconformists. This is not the way to prepare the citizens of a free society.”

Harvard would not comment on the implementation of the new policy beyond the committee’s own statement that faculty and students can provide feedback.

It remains unclear whether the policy will be up for approval by the full faculty or unilaterally enacted by Harvard administrators. ☞



HARVEY SILVERGLATE, PRIVATE ATTORNEY REPRESENTING THE FLY CLUB





## COVER STORY

# FOUR NORTH CAROLINA UNIVERSITIES EARN FIRE'S 'GREEN LIGHT' RATING FOR FREE SPEECH

• NORTH CAROLINA •

In just two months, four universities in the Tar Heel State earned “green light” ratings for their commitment to student and faculty free speech rights. East Carolina University, the University of North Carolina at Charlotte, the University of North Carolina at Greensboro, and North Carolina Central University all earned the distinction in May and June of this year.

Including Duke University and the University of North Carolina at Chapel Hill, which previously earned green light ratings, North Carolina now has six institutions with FIRE’s highest campus free speech rating — more than any other state.

“FIRE is thrilled to see so many universities in North Carolina take concrete steps to preserve free speech rights on campus,” said Laura Beltz, FIRE policy reform program officer. “We are happy to work with any other college or university to protect student and faculty speech rights.”

These institutions are among the 32 colleges and universities nationwide that earn a green light rating because their written policies do not imperil student and faculty expression, according to FIRE’s online Spotlight database.

**North Carolina Central University:** Benita Jones, assistant university legal counsel at NCCU, responded to FIRE’s Nov. 1, 2016 certified mailing to public institutions with “red light” ratings — those with policies that clearly

and substantially restrict First Amendment rights — and worked with FIRE to secure the necessary policy revisions. To earn its green light rating, the university revised or eliminated eight speech codes, including a residential life policy, a posting policy, two sexual harassment policies, and an information technology responsible use policy. NCCU earned its green light rating in early May.

**UNC Greensboro:** Beltz started working with UNCG Associate General Counsel Todd Davis in April when he informed FIRE that the university’s policies on sexual misconduct and sexual harassment had been consolidated into one new policy. After Davis quickly resolved FIRE’s concerns with the new policy, the university improved to a green light rating in early May.

**UNC Charlotte:** After UNC Charlotte student Savannah Soto asked her university’s administration to revise its speech codes in accordance with FIRE’s recommendations, the university reformed three policies to meet the criteria for a green light rating in June. “FIRE’s green light rating is a public recognition of our progress,” said UNC Charlotte Vice Chancellor and General Counsel Jesh Humphrey, “and of our commitment to uphold individual rights while cultivating a community in which those rights are exercised thoughtfully, responsibly, and constructively.”

**East Carolina University:** ECU changed four campus policies to earn FIRE’s top rating in late June. After ECU’s Craig Malmrose, a professor in the School of Art and Design, asked the university to revise its “yellow light” speech codes, administrators at the university did so in accordance with FIRE’s recommendations.

Pennsylvania has the second-highest number of green light institutions in the country — four colleges and universities earn FIRE’s top rating. Indiana and Virginia each have three.

Some of the institutional interest in reforming speech codes in North Carolina appears to stem from

House Bill 527, the “Restore/Preserve Campus Free Speech” bill. The bill instructs colleges and universities in the state not to “shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive.” The bill also provides that students and faculty may assemble and engage in “spontaneous expressive activity” as long as it does not interfere with other university activities. This provision essentially eliminates mandatory pre-approval or registration requirements for student demonstrations on campus.

The bill was passed July 31. 🍷



# RECAP: 2017 FIRE STUDENT NETWORK CONFERENCE

• PHILADELPHIA, PENNSYLVANIA •

Over 100 students from across the country gathered in historic Philadelphia on July 14-16 for the 2017 FIRE Student Network Conference. Set at the National Constitution Center, students had a packed weekend learning about their free speech and due process rights on campus.

The conference kicked off on Friday with a riveting address from Daryl Davis. **Davis, who is black, shared with students his experiences befriending members of the Ku Klux Klan, with the intention of convincing them that their prejudices are unfounded.** His efforts have resulted in numerous Klansmen relinquishing their robes and leaving the group for good.

Saturday began with “Free Expression 101: Speech on Campus” by FIRE Senior Vice President of Legal and Public Advocacy Will Creeley, followed by Executive Director Robert Shibley’s “Twisting Title IX” presentation. Students also learned about FIRE’s litigation efforts from Director of Litigation Marieke Tuthill Beck-Coon. Vice President of Policy Reform Azhar Majeed and Policy Reform Program Officer Laura Beltz worked with students on how to identify problematic speech codes on campus and offered advice on how to improve them.

A new addition to this year’s conference was a mock campus disciplinary proceeding, which showcased some of the rights violations that



2017 FIRE STUDENT NETWORK CONFERENCE GROUP PHOTO

occur regularly on college campuses. Students were able to participate in several ways, including as a Student Defender — a newly launched program at FIRE — whose role was to act as an advocate for the accused student and work to ensure that their due process rights were honored.

Later on in the conference, FIRE staff demonstrated what a model disciplinary proceeding would look like if the accused student was afforded a fair hearing.

Saturday closed with an inspiring address from Jeffrey Rosen, president and CEO of the National Constitution Center, who commended the students’ courage for standing up for their fundamental rights on campus.

For many students, like Duke University sophomore Audrey Kornkven, it was meeting and sharing ideas with other students that made the conference truly worthwhile.

“It’s been really interesting to talk to people and reflect on the awesome speeches that we’ve heard, but also realize that I’m not the only student who cares about this kind of thing, because sometimes it feels that way,” she said.

Neil Burger, a sophomore from the University of Dayton, remarked that a highlight of the conference was the conversation with fellow student attendees.

“Immediately we went into the most controversial topics ... and everyone at the table had very different beliefs from across the political spectrum. No one got upset, no one raised their voices,” he said. **“Everyone walked away feeling more knowledgeable about different subjects — and possibly had their views changed and their views challenged — and everyone was for the better because of it.”**



STUDENTS AT THE 2017 FIRE STUDENT NETWORK CONFERENCE

## RECENT HEADLINES FROM ‘NEWSDESK’

- Ouch! Brazilian wax test question nets Howard University professor a 504-day Title IX investigation, sanctions
- Lukianoff and Haidt in The Atlantic: ‘Why it’s a bad idea to tell students words are violence’
- Trinity College ceases unwarranted investigation of professor’s Facebook posts
- Essex County College wrongly fires professor over controversial TV spot



# SENATE JUDICIARY COMMITTEE HOLDS PUBLIC HEARING ON CAMPUS FREE SPEECH

• WASHINGTON, D.C. •

On June 20, the United States Senate Committee on the Judiciary addressed campus free speech. FIRE legal intern Isaac Smith testified during the hearing, “Free Speech 101: The Assault on the First Amendment on College Campuses.”

Smith, a former student plaintiff in FIRE’s Stand Up For Speech Litigation Project, successfully challenged Ohio University’s speech codes after the university used them to censor his student group’s promotional T-shirts.

Williams College student Zach Wood, UCLA School of Law professor Eugene Volokh, and famed First Amendment attorney Floyd Abrams, who delivered remarks at FIRE’s 15th anniversary dinner in 2014, also testified at the hearing.

“After a string of high-profile and sometimes violent instances of censorship this past school year, free speech on campus has become a pressing concern for many Americans,” said FIRE Legislative and Policy Director Joe Cohn. “We are pleased that the Senate Judiciary Committee is taking this issue seriously and hope this hearing will raise new

awareness on Capitol Hill of the problems posed by campus censorship.”

In the days that followed, Sens. Mitch McConnell and Bernie Sanders also spoke about protecting free speech on campus. McConnell mentioned FIRE on the Senate floor when talking about the trend of campus disinvitations:

“The Foundation for Individual Rights in Education estimates there were 43 reported instances of revoked speaking invitations or similar efforts to block speakers on campus just last year. That’s double the number recorded the previous year. It’s more than 700 percent higher than the six incidents recorded back in 2000. And the trend is getting worse, not simply in terms of the overall number of incidents but — more worryingly — in terms of the growing aggressiveness of those efforts. This year alone, there have been multiple, multiple instances of intimidation, violence, and rioting at universities across the country. There has been nasty and thuggish behavior aimed at suppressing speech. Sadly, it has often succeeded.”

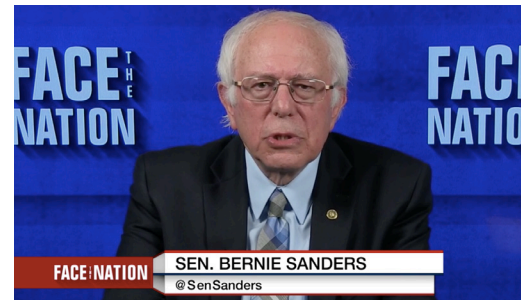
**“After a string of high-profile and sometimes violent instances of censorship this past school year, free speech on campus has become a pressing concern for many Americans.”**

JOE COHN, FIRE LEGISLATIVE AND POLICY DIRECTOR

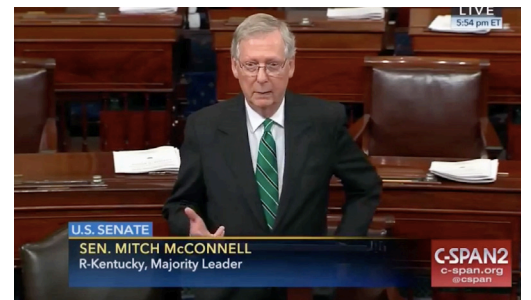
Sanders was asked about campus protests on CBS’ “Face the Nation” on June 18, responding:

“I think people have a right to speak. And you have a right if you’re on a college campus not to attend. You have a right to ask hard questions about the speaker if you disagree with him or her. But why should we be afraid of somebody coming on a campus or anyplace else and speaking? You have a right to protest. But I don’t quite understand why anybody thinks it’s a good idea to deny somebody else the right to express his or her point of view.”

FIRE is pleased that campus free speech has garnered so much attention with senators from across the political spectrum. We stand ready to help McConnell, Sanders, and any other legislator who wants to better protect student speech rights on campus. 🔥



SEN. BERNIE SANDERS, APPEARING ON CBS’ “FACE THE NATION”



SEN. MITCH MCCONNELL, MENTIONING FIRE ON THE SENATE FLOOR

SUMMER 2017



MICKY WOOTTEN, COURTESY OF ELIZABETH WOOTTEN

## SPECIAL HIGHLIGHT: STUDENT BIKES ACROSS COUNTRY TO SUPPORT FIRE

Sixteen-year-old Micky Wootten of Locust Valley, New York is biking across America and raising money for FIRE! Micky, who set off on the six-week journey on June 21, said he liked FIRE because “it works for the betterment of our education system by allowing American students to be exposed to various points of view, and as a result, giving them a better understanding of one another, further shaping their personal beliefs and values.”

Micky’s story was shared on social media, where people are being encouraged to donate to FIRE. His 3,200-mile trip will take him from from Charleston, South Carolina all the way to Los Angeles, California. As of our print deadline, he was pedaling through Arizona on his way to the home stretch.

Thanks for the support, Micky!



## DONOR SPOTLIGHT: JED GROSS MADE A PLANNED GIFT TO FIRE TO SUPPORT HIS VALUES

*“My work as a medical ethicist and historian entails thinking about how we reconcile different goods. For example, physicians are generally expected to put their patients’ health interests first in the context of a clinical relationship, even if this requires suspending judgments that would be appropriate in other settings. Colleges and universities likewise serve a distinct and indispensable function: enabling the open-minded pursuit of knowledge. In a complex and volatile world, competing pressures — however well-intentioned — can unmoor academic institutions from their very reason for existing. I support FIRE because it has proven effective in keeping the spirit of liberal education alive and kicking.” - Jed Adam Gross*

Donating doesn’t always require writing a check. Many supporters like Jed are opting to have a more long-term impact on the causes they care deeply about. To support FIRE’s mission, and the millions of students and professors we serve, Jed has decided to make a planned gift to FIRE

by simply adding FIRE as a beneficiary on a retirement account. With his generous commitment, Jed is helping to ensure that our most cherished freedoms are protected and promoted on campuses across the country for decades to come. Jed will someday leave a real, lasting legacy of liberty.

There are many different planned giving options that offer significant tax savings while providing FIRE with the resources it needs to further its mission. If you’re interested in making a planned gift to FIRE, or just have a few questions about planned giving, please contact FIRE’s development team today!

You can email us at [support@thefire.org](mailto:support@thefire.org) or call us at 215-717-3473. 📞



JED ADAM GROSS, ETERNAL FLAME

## VICTORY: WICHITA STATE STUDENT COURT RECOGNIZES LIBERTARIAN GROUP, REVERSES STUDENT GOVERNMENT DISCRIMINATION

● WICHITA, KANSAS ●

An embattled libertarian student group at Wichita State University is finally free to engage in on-campus activism as a registered student organization. On April 12, the Supreme Court of the Wichita State University Student Government overturned the Student Government Association’s unconstitutional decision to deny recognition to Young Americans for Liberty because of the group’s belief in First Amendment principles.

On April 5, the SGA Senate considered student Maria Church’s application to form a campus chapter of YAL. During the meeting, SGA senators questioned Church about the prospective organization’s political positions, affiliations with YAL chapters on

other campuses, and views on the First Amendment. After Church left the meeting, several senators opposed recognizing the group because of its stance on free speech issues and because YAL chapters at other schools have invited controversial speakers to campus. Following the debate, the SGA Senate voted against recognizing YAL.

In an April 7 letter, FIRE asked WSU President John Bardo to instruct the student government that it cannot engage in viewpoint-based discrimination against prospective student groups. The unanimous decision by the SGA’s judicial branch to grant recognition to YAL came less than a week after FIRE’s letter. 📧



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