

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2220

To amend the Education Amendments of 1972 to ensure that students attending institutions of higher education that receive Federal funds are able to exercise the right to freedom of speech, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1993

Mr. HEFLEY introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Education Amendments of 1972 to ensure that students attending institutions of higher education that receive Federal funds are able to exercise the right to freedom of speech, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freedom of Speech  
5 on Campus Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1           (1) free speech is a fundamental right and a  
2           safeguard against political and intellectual tyranny;

3           (2) curtailment of free speech strikes twice at  
4           intellectual freedom, for whoever deprives a person  
5           of the right to state unpopular views necessarily de-  
6           prives other persons of the right to listen to the  
7           views;

8           (3) the primary and traditional function of a  
9           university is to disseminate knowledge and assist in  
10          the search for truth, and, in order to carry out the  
11          function, to do everything possible to ensure the free  
12          exchange of ideas and the fullest degree of intellec-  
13          tual freedom;

14          (4) therefore, to carry out the function of the  
15          university, every member of the university has an  
16          obligation to permit free expression, and every uni-  
17          versity official has a special obligation to foster free-  
18          dom of speech and to ensure that the speech is not  
19          obstructed, at the university; and

20          (5) unfortunately, some universities and other  
21          institutions of higher education are using Federal  
22          funds to institute prior restraints on speech, by tak-  
23          ing action such as instituting behavior codes and  
24          harassment policies that require “politically correct”

1 speech, with the effect of suppressing unpopular  
2 viewpoints.

3 **SEC. 3. SENSE OF CONGRESS.**

4 It is the sense of Congress that students attending  
5 universities, or other institutions of higher education, that  
6 receive Federal funds should be able to exercise full rights  
7 to freedom of speech on campus free from official  
8 intrusion.

9 **SEC. 4. PROHIBITION OF DISCRIMINATION.**

10 (a) IN GENERAL.—Title IX of the Education Amend-  
11 ments of 1972 is amended by inserting after section 901  
12 (20 U.S.C. 1681) the following new section:

13 **“SEC. 901A. PROHIBITION OF DISCRIMINATION BASED ON**  
14 **PROTECTED SPEECH.**

15 “(a) PROHIBITION.—

16 “(1) IN GENERAL.—Except as provided in para-  
17 graph (2), no student attending an institution of  
18 higher education shall, on the basis of protected  
19 speech, be excluded from participation in, be denied  
20 the benefits of, or be subjected to discrimination or  
21 official sanction under, any education program or  
22 activity receiving Federal financial assistance under  
23 the Higher Education Act of 1965 (20 U.S.C. 1001  
24 et seq.).

1           “(2) RELIGIOUS AND MILITARY INSTITU-  
2           TIONS.—Paragraph (1) shall not apply to an institu-  
3           tion of higher education—

4                   “(A) that is controlled by or affiliated with  
5                   a religious organization, if the application of  
6                   this section would not be consistent with the re-  
7                   ligious tenets of such organization; or

8                   “(B) whose primary purpose is the train-  
9                   ing of individuals for—

10                           “(i) the military service of the United  
11                           States; or

12                           “(ii) the merchant marine.

13           “(b) CONSTRUCTION.—Nothing in subsection (a)  
14 shall be construed to prevent—

15                   “(1) the imposition of an official sanction on a  
16                   student determined to have willfully participated in  
17                   the disruption or attempted disruption of a lecture,  
18                   class, speech, presentation, or performance, made or  
19                   scheduled to be made, under the auspices of the in-  
20                   stitution of higher education; or

21                   “(2) actions by the institution of higher edu-  
22                   cation that are necessary to ensure—

23                           “(A) the physical safety of individuals;

24                           “(B) the protection of property; and

1           “(C) the continuation of the academic and  
2           administrative process without interference.

3           “(c) DEFINITIONS.—As used in this section:

4           “(1) INSTITUTION OF HIGHER EDUCATION.—  
5           The term ‘institution of higher education’ has the  
6           meaning given the term in section 1201(a) of the  
7           Higher Education Act of 1965 (20 U.S.C. 1141(a)).

8           “(2) PROTECTED SPEECH.—The term ‘pro-  
9           tected speech’ means speech that is protected under  
10          the first and fourteenth amendments to the United  
11          States Constitution, or would be so protected if the  
12          institution of higher education were subject to those  
13          amendments.

14          “(3) OFFICIAL SANCTION.—The term ‘official  
15          sanction’—

16                 “(A) means expulsion, suspension, proba-  
17                 tion, censure, condemnation, reprimand, or any  
18                 other disciplinary, coercive, or adverse action  
19                 taken by an institution of higher education or  
20                 an administrative unit of the institution; and

21                 “(B) includes an oral or written warning  
22                 made by an official of an institution of higher  
23                 education acting in the official capacity of the  
24                 official.”.

1 (b) FEDERAL ADMINISTRATIVE ENFORCEMENT.—  
2 Section 902 of the Education Amendments of 1972 (20  
3 U.S.C. 1682) is amended in the first sentence by striking  
4 out “section 901” and inserting “sections 901 and 901A”.

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