

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2873

6 By: Newell

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to public education; defining certain
10 terms; prohibiting a public institution of higher
11 education from denying a religious student
12 association certain benefits; prohibiting public
13 institution of higher education from substantially
14 burdening a student's exercise of religion; providing
15 for exceptions; permitting student to assert certain
16 claims or defenses; providing for certain
17 construction; providing for codification; and
18 providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2119 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in Sections 1 through 5 of this act:

24 1. "Benefit" includes, without limitation:

a. recognition,

b. registration,

- 1 c. the use of facilities of the public institution of
2 higher education for meetings or speaking purposes,
3 d. the use of channels of communication of the public
4 institution of higher education, and
5 e. funding sources that are otherwise available to other
6 student associations in the public institution of
7 higher education;

8 2. "Exercise of religion" includes without limitation the
9 practice or observance of religion as interpreted under state law or
10 the First Amendment of the United States Constitution, whichever
11 interpretation is broader;

12 3. "Public institution of higher education" includes any
13 institution that is a member of The Oklahoma State System of Higher
14 Education or of a technology center school district;

15 4. "Substantially burdens" includes without limitation an
16 action by a public institution of higher education which directly or
17 indirectly:

- 18 a. constrains or inhibits conduct or expression that
19 reflects a student's sincerely held religious beliefs,
20 b. denies a student an opportunity to engage in religious
21 activities, or
22 c. pressures a student either:
23 (1) to not engage in conduct or expression motivated
24 by a sincerely held religious belief, or

1 (2) to engage in conduct or expression contrary to a
2 sincerely held religious belief;

3 5. "Student" means a person who is enrolled full-time or part-
4 time in a public institution of higher education; and

5 6. "Religious student association" means an association of
6 students organized around shared religious beliefs.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2119.1 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 A. No public institution of higher education may take any
11 action or enforce any policy that would deny a religious student
12 association any benefit available to any other student association,
13 or discriminate against a religious student association with respect
14 to such benefit, based on that association's requirement that its
15 leaders or members:

16 1. Adhere to the association's sincerely held religious
17 beliefs;

18 2. Comply with the association's sincere religious observance
19 requirements;

20 3. Comply with the association's sincere religious standards of
21 conduct; or

22 4. Be committed to furthering the association's religious
23 missions,
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1 as such religious beliefs, observance requirements, standards of
2 conduct or missions are defined by the religious student
3 association, or the religion upon which the association is based.

4 B. The legal standard provided in subsection B of Section 3 of
5 this act shall not apply to this section.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2119.2 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 A. In addition to the protections provided in Section 2 of this
10 act, no public institution of higher education may substantially
11 burden a student's exercise of religion, even if the burden results
12 from a rule of general applicability, except as provided in
13 subsection B of this section.

14 B. A public institution of higher education may substantially
15 burden a student's exercise of religion only if that institution
16 demonstrates that application of the burden to the student:

- 17 1. Is in furtherance of a compelling interest of the public
18 institution of higher education;
- 19 2. Actually furthers that interest; and
- 20 3. Is the least restrictive means of furthering that interest.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2119.3 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

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1 A student or religious student association aggrieved by a
2 violation of Section 2 or 3 of this act may assert that violation as
3 a claim or defense in a judicial or administrative proceeding
4 against the public institution of higher education and obtain
5 appropriate relief, including damages, against that institution from
6 a court or administrative body.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2119.4 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 These provisions shall be construed in favor of a broad
11 protection of religious freedom, to the maximum extent permitted by
12 their terms and by the Constitutions of this state and the United
13 States of America.

14 SECTION 6. This act shall become effective November 1, 2014.

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