

AN ACT

To amend sections 3333.31, 3345.021, and 3345.21 and to enact sections 3345.0211, 3345.0212, 3345.0213, and 3345.0214 of the Revised Code to expand the "Forever Buckeye" program by granting in-state college tuition to individuals who receive a certificate of high school equivalence in Ohio and to enact the "Forming Open and Robust University Minds Act" regarding free speech on college campuses.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3333.31, 3345.021, and 3345.21 be amended and sections 3345.0211, 3345.0212, 3345.0213, and 3345.0214 of the Revised Code be enacted to read as follows:

Sec. 3333.31. (A) For state subsidy and tuition surcharge purposes, status as a resident of Ohio shall be defined by the chancellor of higher education by rule promulgated pursuant to Chapter 119. of the Revised Code. No adjudication as to the status of any person under such rule, however, shall be required to be made pursuant to Chapter 119. of the Revised Code. The term "resident" for these purposes shall not be equated with the definition of that term as it is employed elsewhere under the laws of this state and other states, and shall not carry with it any of the legal connotations appurtenant thereto. Rather, except as provided in divisions (B), (C), and (E) of this section, for such purposes, the rule promulgated under this section shall have the objective of excluding from treatment as residents those who are present in the state primarily for the purpose of attending a state-supported or state-assisted institution of higher education, and may prescribe presumptive rules, rebuttable or conclusive, as to such purpose based upon the source or sources of support of the student, residence prior to first enrollment, evidence of intention to remain in the state after completion of studies, or such other factors as the chancellor deems relevant.

(B) The rules of the chancellor for determining student residency shall grant residency status to a veteran and to the veteran's spouse and any dependent of the veteran, if both of the following conditions are met:

(1) The veteran either:

(a) Served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service;

(b) Was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war.

(2) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of a term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency status have established domicile

in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty, has been declared to be missing in action or a prisoner of war, or is deceased after discharge, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

(C) The rules of the chancellor for determining student residency shall grant residency status to both of the following:

(1) A veteran who is the recipient of federal veterans' benefits under the "All-Volunteer Force Educational Assistance Program," 38 U.S.C. 3001 et seq., or "Post-9/11 Veterans Educational Assistance Program," 38 U.S.C. 3301 et seq., or any successor program, if the veteran meets all of the following criteria:

(a) The veteran served at least ninety days on active duty.

(b) The veteran enrolls in a state institution of higher education, as defined in section 3345.011 of the Revised Code.

(c) The veteran lives in the state as of the first day of a term of enrollment in the state institution of higher education.

(2) A person who is the recipient of the federal Marine Gunnery Sergeant John David Fry scholarship or transferred federal veterans' benefits under any of the programs described in division (C)(1) of this section, if the person meets both of the following criteria:

(a) The person enrolls in a state institution of higher education.

(b) The person lives in the state as of the first day of a term of enrollment in the state institution of higher education.

In order for a person using transferred federal veterans' benefits to qualify under division (C) (2) of this section, the veteran who transferred the benefits must have served at least ninety days on active duty or the service member who transferred the benefits must be on active duty.

(D) The rules of the chancellor for determining student residency shall not deny residency status to a student who is either a dependent child of a parent, or the spouse of a person who, as of the first day of a term of enrollment in an institution of higher education, has accepted full-time employment and established domicile in this state for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

(1) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent or spouse of the student is employed full-time in Ohio;

(2) A copy of the lease under which the parent or spouse is the lessee and occupant of rented residential property in the state, a copy of the closing statement on residential real property of which the parent or spouse is the owner and occupant in this state or, if the parent or spouse is not the lessee or owner of the residence in which the parent or spouse has established domicile, a letter from the owner of the residence certifying that the parent or spouse resides at that residence.

Residency officers may also evaluate, in accordance with the chancellor's rule, requests for immediate residency status from dependent students whose parents are not living and whose domicile follows that of a legal guardian who has accepted full-time

employment and established domicile in the state for reasons other than gaining the benefit of favorable tuition rates.

(E)(1) The rules of the chancellor for determining student residency shall grant residency status to a person who, ~~while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state or completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code, if the person enrolls in an institution of higher education and establishes domicile in this state, regardless of the student's residence prior to that enrollment and satisfies either of the following conditions:~~

(a) The person, while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state or completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code.

(b) The person meets all of the following criteria:

(i) The person officially withdrew from a school in this state while the person was a resident of this state for state subsidy and tuition surcharge purposes.

(ii) The person has not received a high school diploma or honors diploma awarded under section 3313.61, 3313.611, 3313.612, or 3325.08 of the Revised Code or a high school diploma awarded by a school located in another state or country.

(iii) The person while a resident of this state for state subsidy and tuition surcharge purposes, both took a high school equivalency test and was awarded a certificate of high school equivalence.

(2) The rules of the chancellor for determining student residency shall not grant residency status to an alien if the alien is not also an immigrant or a nonimmigrant.

(F) As used in this section:

(1) "Dependent," "domicile," "institution of higher education," and "residency officer" have the meanings ascribed in the chancellor's rules adopted under this section.

(2) "Alien" means a person who is not a United States citizen or a United States national.

(3) "Immigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside permanently in the United States and to work without restrictions in the United States.

(4) "Nonimmigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside temporarily in the United States.

(5) "Veteran" means any person who has completed service in the uniformed services, as defined in section 3511.01 of the Revised Code.

(6) "Service member" has the same meaning as in section 5903.01 of the Revised Code.

(7) "Certificate of high school equivalence" means either of the following:

(a) A certificate of high school equivalence awarded by the department of education under division (A) of section 3301.80 of the Revised Code;

(b) The equivalent of a certificate of high school equivalence awarded by the state board of education under former law, as defined in division (C)(1) of section 3301.80 of the Revised Code.

Sec. 3345.021. ~~The Subject to sections 3345.0212 to 3345.0214 of the Revised Code, the~~ board of trustees of any college or university, which receives any state funds in support thereof, shall have full power and authority on all matters relative to the administration of such college or university.

~~Such power shall include but not be limited to the authority to withhold use of the facilities of any such college or university for meetings or speaking purposes from persons who are members of the communist party, persons who advocate or persons who hold membership in or support organizations which advocate the overthrow of the government of the United States and its free institutions by force or violence or whose presence is not conducive to high ethical and moral standards or the primary educational purposes and orderly conduct of the functions of the institution.~~

~~The board of trustees of any such college or university may delegate any administrative authority mentioned in this section, including but not limited to, the enforcement of rules or regulations with respect to the use of university or college facilities for speaking purposes, to the president of any such college or university, or to such other administrative personnel as may be designated or appointed therefor by the board of trustees.~~

Sec. 3345.0211. (A) As used in this section and sections 3345.0212 to 3345.0214 of the Revised Code:

(1) "Benefits" has the same meaning as in section 3345.023 of the Revised Code.

(2) "Campus community" means students, student groups, faculty, staff, and employees of a state institution of higher education and their invited guests.

(3) "Expressive activities" means any lawful verbal, written, audiovisual, or electronic means by which individuals may communicate ideas, including all forms of peaceful assembly, protests, speeches, distribution of literature, carrying and displaying signs, and circulating petitions.

(4) "Harassment" means unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the individual's education program or activity.

(5) "Materially and substantially disrupts" means when a person, with the intent to, or with knowledge of doing so, significantly hinders another person's or group's expressive activity, prevents communication of their message, or prevents the transaction of the business of a lawful meeting, gathering, or procession by either:

(a) Engaging in violent or otherwise unlawful behavior; or

(b) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity. This shall not include conduct that is protected under the First Amendment to the United States Constitution or Section 3 of Article I of the Ohio Constitution.

(6) "Outdoor areas of campus" means the generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways, and other similar common areas. This does not include outdoor areas where access is restricted to a majority of the campus community.

(7) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(8) "Student" means any person who is enrolled on a full-time or part-time basis in a state institution of higher education.

(9) "Student group" means an officially recognized group at a state institution of higher education, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the institution of higher education.

(B) The provisions and requirements of sections 3345.0212 to 3345.0214 of the Revised Code supersede any rule, policy, action, communication, or requirement of any state institution of higher education. No rule, policy, action, communication, or requirement shall contradict or diminish the effect of those sections of the Revised Code.

Sec. 3345.0212. (A) Except as permitted by this section and sections 3345.0213 and 3345.12 of the Revised Code, no state institution of higher education, or any of its administrators acting in their official capacity, shall prohibit any individual from engaging in noncommercial expressive activity on campus, so long as the individual's conduct is lawful and does not materially and substantially disrupt the functioning of the institution.

(B) No state institution of higher education shall charge security fees to a student or a student group based on the content of their expression, the content of the expression of their invited guest, or the anticipated reaction to an invited guest's expression.

(C) Each state institution of higher education shall do all of the following:

(1) Adopt a policy on harassment that is consistent with and adheres strictly to its definition in section 3345.0211 of the Revised Code;

(2) Make public in its handbook, on its web site, and in its orientation programs for students the policies, regulations, and expectations of students regarding free expression on campus;

(3) Develop and distribute materials, programs, and procedures to individuals responsible for the education or discipline of students, such as administrators, campus police officers, residence life officials, and professors, to inform them of the policies, regulations, and duties of the institution regarding free expression on campus.

(D)(1) Nothing in this section shall be interpreted as preventing state institutions of higher education from restricting expressive activities that the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution does not protect.

(2) Nothing in this section shall enable individuals to engage in conduct that intentionally, materially, and substantially disrupts another individual's expressive activity if it occurs in a campus space reserved for exclusive use or control of a particular individual or group.

Sec. 3345.0213. (A)(1) Outdoor areas of campuses of state institutions of higher education are public forums for campus communities.

(2) State institutions of higher education shall not create "free speech zones" or designate other outdoor areas of campuses where expressive activities are prohibited.

(3) State institutions of higher education may maintain and enforce reasonable time, place, and manner restrictions specifically developed in service of a significant institutional interest only when such restrictions employ clear, published, viewpoint- and content-neutral criteria, and provide for ample alternative means for expressive activities. Any such restrictions shall allow for members of a campus community to spontaneously and contemporaneously assemble and distribute literature.

(B) Nothing in this section shall be interpreted as limiting the right of student expression elsewhere on campus.

Sec. 3345.0214. (A) Within one hundred eighty days after the effective date of this section, and in a manner that complies with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, each state institution of higher education shall submit to the governor, speaker of the house of representatives, and president of the senate a report detailing its course of

action in accordance with sections 3345.0212 and 3345.0213 of the Revised Code. The report shall contain the following information:

(1) A description of any barriers to or incidents of disruption of free expression occurring on campus, including attempts to block or prohibit speakers and any investigation of students or student groups on the basis of expression. The description also shall include the nature of each barrier or incident and the disciplinary action, if any, taken against members of the campus community determined to be responsible for the barriers or incidents;

(2) Any other information the state institution of higher education finds necessary and appropriate for the public to evaluate whether the free expression rights for members of the campus community have been adequately protected.

(B) Each state institution of higher education shall publish the report prescribed by this division on its web site. The report must:

(1) Be accessible from the main page of an institution's web site by use of not more than three links;

(2) Be word-searchable; and

(3) Be accessible to the public without requiring user registration of any kind.

(C) Within thirty days after an action is brought against a state institution of higher education for an alleged violation of expression rights, the institution shall submit a supplementary report, containing the information described in division (A) of this section and a copy of the complaint.

Sec. 3345.21. The board of trustees of any college or university which receives any state funds in support thereof, shall regulate the use of the grounds, buildings, equipment, and facilities of such college or university and the conduct of the students, staff, faculty, and visitors to the campus so that law and order are maintained and the college or university may pursue its educational objectives and programs in an orderly manner.

The board of trustees of each such college or university shall adopt rules for the conduct of the students, faculty, visitors, and staff, and may provide for the ejection from college or university property, suspension or expulsion of a person who violates such regulations. All such rules shall be published in a manner reasonably designed to come to the attention of, and be available to, all faculty, staff, visitors, and students.

The board of trustees shall provide for the administration and enforcement of its rules and may authorize the use of state university law enforcement officers provided for in section 3345.04 of the Revised Code to assist in enforcing the rules and the law on the campus of the college or university. The board of trustees, or appropriate officials of such college or university when the authority to do so has been delegated by the board of trustees, may seek the assistance of other appropriate law enforcement officers to enforce the rules and to enforce laws for the preservation of good order on the campus, and to prevent the disruption of the educational functions of the college or university.

~~The~~ In accordance with section 3345.0213 of the Revised Code, the rules of the board of trustees shall not restrict freedom of speech nor the right of persons on the campus to assemble peacefully.

SECTION 2. That existing sections 3333.31, 3345.021, and 3345.21 of the Revised Code are

hereby repealed.

SECTION 3. This act shall be known as the "Forming Open and Robust University Minds Act," or the "FORUM Act."

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 40

133rd G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____