

As Reported by the House Higher Education Committee

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Sub. S. B. No. 40

Senators Brenner, McColley

Cosponsors: Senators Roegner, Blessing, Burke, Coley, Craig, Eklund, Hackett, Hoagland, Huffman, M., Huffman, S., Johnson, Lehner, Maharath, Obhof, Peterson, Rulli, Schaffer, Wilson Representative Riedel

A BILL

To amend sections 3333.31, 3345.021, and 3345.21 1
and to enact sections 3345.0211, 3345.0212, 2
3345.0213, and 3345.0214 of the Revised Code to 3
expand the "Forever Buckeye" program by granting 4
in-state college tuition to individuals who 5
receive a certificate of high school equivalence 6
in Ohio and to enact the "Forming Open and 7
Robust University Minds Act" regarding free 8
speech on college campuses. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3333.31, 3345.021, and 3345.21 be 10
amended and sections 3345.0211, 3345.0212, 3345.0213, and 11
3345.0214 of the Revised Code be enacted to read as follows: 12

Sec. 3333.31. (A) For state subsidy and tuition surcharge 13
purposes, status as a resident of Ohio shall be defined by the 14
chancellor of higher education by rule promulgated pursuant to 15
Chapter 119. of the Revised Code. No adjudication as to the 16
status of any person under such rule, however, shall be required 17

to be made pursuant to Chapter 119. of the Revised Code. The 18
term "resident" for these purposes shall not be equated with the 19
definition of that term as it is employed elsewhere under the 20
laws of this state and other states, and shall not carry with it 21
any of the legal connotations appurtenant thereto. Rather, 22
except as provided in divisions (B), (C), and (E) of this 23
section, for such purposes, the rule promulgated under this 24
section shall have the objective of excluding from treatment as 25
residents those who are present in the state primarily for the 26
purpose of attending a state-supported or state-assisted 27
institution of higher education, and may prescribe presumptive 28
rules, rebuttable or conclusive, as to such purpose based upon 29
the source or sources of support of the student, residence prior 30
to first enrollment, evidence of intention to remain in the 31
state after completion of studies, or such other factors as the 32
chancellor deems relevant. 33

(B) The rules of the chancellor for determining student 34
residency shall grant residency status to a veteran and to the 35
veteran's spouse and any dependent of the veteran, if both of 36
the following conditions are met: 37

(1) The veteran either: 38

(a) Served one or more years on active military duty and 39
was honorably discharged or received a medical discharge that 40
was related to the military service; 41

(b) Was killed while serving on active military duty or 42
has been declared to be missing in action or a prisoner of war. 43

(2) If the veteran seeks residency status for tuition 44
surcharge purposes, the veteran has established domicile in this 45
state as of the first day of a term of enrollment in an 46

institution of higher education. If the spouse or a dependent of 47
the veteran seeks residency status for tuition surcharge 48
purposes, the veteran and the spouse or dependent seeking 49
residency status have established domicile in this state as of 50
the first day of a term of enrollment in an institution of 51
higher education, except that if the veteran was killed while 52
serving on active military duty, has been declared to be missing 53
in action or a prisoner of war, or is deceased after discharge, 54
only the spouse or dependent seeking residency status shall be 55
required to have established domicile in accordance with this 56
division. 57

(C) The rules of the chancellor for determining student 58
residency shall grant residency status to both of the following: 59

(1) A veteran who is the recipient of federal veterans' 60
benefits under the "All-Volunteer Force Educational Assistance 61
Program," 38 U.S.C. 3001 et seq., or "Post-9/11 Veterans 62
Educational Assistance Program," 38 U.S.C. 3301 et seq., or any 63
successor program, if the veteran meets all of the following 64
criteria: 65

(a) The veteran served at least ninety days on active 66
duty. 67

(b) The veteran enrolls in a state institution of higher 68
education, as defined in section 3345.011 of the Revised Code. 69

(c) The veteran lives in the state as of the first day of 70
a term of enrollment in the state institution of higher 71
education. 72

(2) A person who is the recipient of the federal Marine 73
Gunnery Sergeant John David Fry scholarship or transferred 74
federal veterans' benefits under any of the programs described 75

in division (C) (1) of this section, if the person meets both of 76
the following criteria: 77

(a) The person enrolls in a state institution of higher 78
education. 79

(b) The person lives in the state as of the first day of a 80
term of enrollment in the state institution of higher education. 81

In order for a person using transferred federal veterans' 82
benefits to qualify under division (C) (2) of this section, the 83
veteran who transferred the benefits must have served at least 84
ninety days on active duty or the service member who transferred 85
the benefits must be on active duty. 86

(D) The rules of the chancellor for determining student 87
residency shall not deny residency status to a student who is 88
either a dependent child of a parent, or the spouse of a person 89
who, as of the first day of a term of enrollment in an 90
institution of higher education, has accepted full-time 91
employment and established domicile in this state for reasons 92
other than gaining the benefit of favorable tuition rates. 93

Documentation of full-time employment and domicile shall 94
include both of the following documents: 95

(1) A sworn statement from the employer or the employer's 96
representative on the letterhead of the employer or the 97
employer's representative certifying that the parent or spouse 98
of the student is employed full-time in Ohio; 99

(2) A copy of the lease under which the parent or spouse 100
is the lessee and occupant of rented residential property in the 101
state, a copy of the closing statement on residential real 102
property of which the parent or spouse is the owner and occupant 103
in this state or, if the parent or spouse is not the lessee or 104

owner of the residence in which the parent or spouse has 105
established domicile, a letter from the owner of the residence 106
certifying that the parent or spouse resides at that residence. 107

Residency officers may also evaluate, in accordance with the 108
chancellor's rule, requests for immediate residency status from 109
dependent students whose parents are not living and whose 110
domicile follows that of a legal guardian who has accepted full- 111
time employment and established domicile in the state for 112
reasons other than gaining the benefit of favorable tuition 113
rates. 114

(E) (1) The rules of the chancellor for determining student 115
residency shall grant residency status to a person who, ~~while a~~ 116
~~resident of this state for state subsidy and tuition surcharge~~ 117
~~purposes, graduated from a high school in this state or completed~~ 118
~~the final year of instruction at home as authorized under~~ 119
~~section 3321.04 of the Revised Code, if the person enrolls in an~~ 120
institution of higher education and establishes domicile in this 121
state, regardless of the student's residence prior to that 122
enrollment and satisfies either of the following conditions: 123

(a) The person, while a resident of this state for state 124
subsidy and tuition surcharge purposes, graduated from a high 125
school in this state or completed the final year of instruction 126
at home as authorized under section 3321.04 of the Revised Code. 127

(b) The person meets all of the following criteria: 128

(i) The person officially withdrew from a school in this 129
state while the person was a resident of this state for state 130
subsidy and tuition surcharge purposes. 131

(ii) The person has not received a high school diploma or 132
honors diploma awarded under section 3313.61, 3313.611, 133

<u>3313.612, or 3325.08 of the Revised Code or a high school</u>	134
<u>diploma awarded by a school located in another state or country.</u>	135
<u>(iii) The person while a resident of this state for state</u>	136
<u>subsidy and tuition surcharge purposes, both took a high school</u>	137
<u>equivalency test and was awarded a certificate of high school</u>	138
<u>equivalence.</u>	139
(2) The rules of the chancellor for determining student	140
residency shall not grant residency status to an alien if the	141
alien is not also an immigrant or a nonimmigrant.	142
(F) As used in this section:	143
(1) "Dependent," "domicile," "institution of higher	144
education," and "residency officer" have the meanings ascribed	145
in the chancellor's rules adopted under this section.	146
(2) "Alien" means a person who is not a United States	147
citizen or a United States national.	148
(3) "Immigrant" means an alien who has been granted the	149
right by the United States bureau of citizenship and immigration	150
services to reside permanently in the United States and to work	151
without restrictions in the United States.	152
(4) "Nonimmigrant" means an alien who has been granted the	153
right by the United States bureau of citizenship and immigration	154
services to reside temporarily in the United States.	155
(5) "Veteran" means any person who has completed service	156
in the uniformed services, as defined in section 3511.01 of the	157
Revised Code.	158
(6) "Service member" has the same meaning as in section	159
5903.01 of the Revised Code.	160

(7) "Certificate of high school equivalence" means either 161
of the following: 162

(a) A certificate of high school equivalence awarded by 163
the department of education under division (A) of section 164
3301.80 of the Revised Code; 165

(b) The equivalent of a certificate of high school 166
equivalence awarded by the state board of education under former 167
law, as defined in division (C)(1) of section 3301.80 of the 168
Revised Code. 169

Sec. 3345.021. ~~The~~ Subject to sections 3345.0212 to 170
3345.0214 of the Revised Code, the board of trustees of any 171
college or university, which receives any state funds in support 172
thereof, shall have full power and authority on all matters 173
relative to the administration of such college or university. 174

~~Such power shall include but not be limited to the~~ 175
~~authority to withhold use of the facilities of any such college~~ 176
~~or university for meetings or speaking purposes from persons who~~ 177
~~are members of the communist party, persons who advocate or~~ 178
~~persons who hold membership in or support organizations which~~ 179
~~advocate the overthrow of the government of the United States~~ 180
~~and its free institutions by force or violence or whose presence~~ 181
~~is not conducive to high ethical and moral standards or the~~ 182
~~primary educational purposes and orderly conduct of the~~ 183
~~functions of the institution.~~ 184

The board of trustees of any such college or university 185
may delegate any administrative authority ~~mentioned in this~~ 186
~~section, including but not limited to, the enforcement of rules~~ 187
~~or regulations with respect to the use of university or college~~ 188
~~facilities for speaking purposes,~~ to the president of any such 189

college or university, or to such other administrative personnel 190
as may be designated or appointed therefor by the board of 191
trustees. 192

Sec. 3345.0211. (A) As used in this section and sections 193
3345.0212 to 3345.0214 of the Revised Code: 194

(1) "Benefits" has the same meaning as in section 3345.023 195
of the Revised Code. 196

(2) "Campus community" means students, student groups, 197
faculty, staff, and employees of a state institution of higher 198
education and their invited guests. 199

(3) "Expressive activities" means any lawful verbal, 200
written, audiovisual, or electronic means by which individuals 201
may communicate ideas, including all forms of peaceful assembly, 202
protests, speeches, distribution of literature, carrying and 203
displaying signs, and circulating petitions. 204

(4) "Harassment" means unwelcome conduct that is so 205
severe, pervasive, and objectively offensive that it effectively 206
denies an individual equal access to the individual's education 207
program or activity. 208

(5) "Materially and substantially disrupts" means when a 209
person, with the intent to, or with knowledge of doing so, 210
significantly hinders another person's or group's expressive 211
activity, prevents communication of their message, or prevents 212
the transaction of the business of a lawful meeting, gathering, 213
or procession by either: 214

(a) Engaging in violent or otherwise unlawful behavior; or 215

(b) Physically blocking or using threats of violence to 216
prevent any person from attending, listening to, viewing, or 217

otherwise participating in an expressive activity. This shall 218
not include conduct that is protected under the First Amendment 219
to the United States Constitution or Section 3 of Article I of 220
the Ohio Constitution. 221

(6) "Outdoor areas of campus" means the generally 222
accessible outside areas of campus where members of the campus 223
community are commonly allowed, such as grassy areas, walkways, 224
and other similar common areas. This does not include outdoor 225
areas where access is restricted to a majority of the campus 226
community. 227

(7) "State institution of higher education" has the same 228
meaning as in section 3345.011 of the Revised Code. 229

(8) "Student" means any person who is enrolled on a full- 230
time or part-time basis in a state institution of higher 231
education. 232

(9) "Student group" means an officially recognized group 233
at a state institution of higher education, or a group seeking 234
official recognition, comprised of admitted students that 235
receive, or are seeking to receive, benefits through the 236
institution of higher education. 237

(B) The provisions and requirements of sections 3345.0212 238
to 3345.0214 of the Revised Code supersede any rule, policy, 239
action, communication, or requirement of any state institution 240
of higher education. No rule, policy, action, communication, or 241
requirement shall contradict or diminish the effect of those 242
sections of the Revised Code. 243

Sec. 3345.0212. (A) Except as permitted by this section 244
and sections 3345.0213 and 3345.12 of the Revised Code, no state 245
institution of higher education, or any of its administrators 246

acting in their official capacity, shall prohibit any individual 247
from engaging in noncommercial expressive activity on campus, so 248
long as the individual's conduct is lawful and does not 249
materially and substantially disrupt the functioning of the 250
institution. 251

(B) No state institution of higher education shall charge 252
security fees to a student or a student group based on the 253
content of their expression, the content of the expression of 254
their invited guest, or the anticipated reaction to an invited 255
guest's expression. 256

(C) Each state institution of higher education shall do 257
all of the following: 258

(1) Adopt a policy on harassment that is consistent with 259
and adheres strictly to its definition in section 3345.0211 of 260
the Revised Code; 261

(2) Make public in its handbook, on its web site, and in 262
its orientation programs for students the policies, regulations, 263
and expectations of students regarding free expression on 264
campus; 265

(3) Develop and distribute materials, programs, and 266
procedures to individuals responsible for the education or 267
discipline of students, such as administrators, campus police 268
officers, residence life officials, and professors, to inform 269
them of the policies, regulations, and duties of the institution 270
regarding free expression on campus. 271

(D) (1) Nothing in this section shall be interpreted as 272
preventing state institutions of higher education from 273
restricting expressive activities that the First Amendment to 274
the United States Constitution or Article I, Sections 3 and 11 275

of the Ohio Constitution does not protect. 276

(2) Nothing in this section shall enable individuals to 277
engage in conduct that intentionally, materially, and 278
substantially disrupts another individual's expressive activity 279
if it occurs in a campus space reserved for exclusive use or 280
control of a particular individual or group. 281

Sec. 3345.0213. (A) (1) Outdoor areas of campuses of state 282
institutions of higher education are public forums for campus 283
communities. 284

(2) State institutions of higher education shall not 285
create "free speech zones" or designate other outdoor areas of 286
campuses where expressive activities are prohibited. 287

(3) State institutions of higher education may maintain 288
and enforce reasonable time, place, and manner restrictions 289
specifically developed in service of a significant institutional 290
interest only when such restrictions employ clear, published, 291
viewpoint- and content-neutral criteria, and provide for ample 292
alternative means for expressive activities. Any such 293
restrictions shall allow for members of a campus community to 294
spontaneously and contemporaneously assemble and distribute 295
literature. 296

(B) Nothing in this section shall be interpreted as 297
limiting the right of student expression elsewhere on campus. 298

Sec. 3345.0214. (A) Within one hundred eighty days after 299
the effective date of this section, and in a manner that 300
complies with the "Family Educational Rights and Privacy Act of 301
1974," 88 Stat. 571, 20 U.S.C. 1232g, each state institution of 302
higher education shall submit to the governor, speaker of the 303
house of representatives, and president of the senate a report 304

detailing its course of action in accordance with sections 305
3345.0212 and 3345.0213 of the Revised Code. The report shall 306
contain the following information: 307

(1) A description of any barriers to or incidents of 308
disruption of free expression occurring on campus, including 309
attempts to block or prohibit speakers and any investigation of 310
students or student groups on the basis of expression. The 311
description also shall include the nature of each barrier or 312
incident and the disciplinary action, if any, taken against 313
members of the campus community determined to be responsible for 314
the barriers or incidents; 315

(2) Any other information the state institution of higher 316
education finds necessary and appropriate for the public to 317
evaluate whether the free expression rights for members of the 318
campus community have been adequately protected. 319

(B) Each state institution of higher education shall 320
publish the report prescribed by this division on its web site. 321
The report must: 322

(1) Be accessible from the main page of an institution's 323
web site by use of not more than three links; 324

(2) Be word-searchable; and 325

(3) Be accessible to the public without requiring user 326
registration of any kind. 327

(C) Within thirty days after an action is brought against 328
a state institution of higher education for an alleged violation 329
of expression rights, the institution shall submit a 330
supplementary report, containing the information described in 331
division (A) of this section and a copy of the complaint. 332

Sec. 3345.21. The board of trustees of any college or 333
university which receives any state funds in support thereof, 334
shall regulate the use of the grounds, buildings, equipment, and 335
facilities of such college or university and the conduct of the 336
students, staff, faculty, and visitors to the campus so that law 337
and order are maintained and the college or university may 338
pursue its educational objectives and programs in an orderly 339
manner. 340

The board of trustees of each such college or university 341
shall adopt rules for the conduct of the students, faculty, 342
visitors, and staff, and may provide for the ejection from 343
college or university property, suspension or expulsion of a 344
person who violates such regulations. All such rules shall be 345
published in a manner reasonably designed to come to the 346
attention of, and be available to, all faculty, staff, visitors, 347
and students. 348

The board of trustees shall provide for the administration 349
and enforcement of its rules and may authorize the use of state 350
university law enforcement officers provided for in section 351
3345.04 of the Revised Code to assist in enforcing the rules and 352
the law on the campus of the college or university. The board of 353
trustees, or appropriate officials of such college or university 354
when the authority to do so has been delegated by the board of 355
trustees, may seek the assistance of other appropriate law 356
enforcement officers to enforce the rules and to enforce laws 357
for the preservation of good order on the campus, and to prevent 358
the disruption of the educational functions of the college or 359
university. 360

The In accordance with section 3345.0213 of the Revised 361
Code, the rules of the board of trustees shall not restrict 362

freedom of speech nor the right of persons on the campus to 363
assemble peacefully. 364

Section 2. That existing sections 3333.31, 3345.021, and 365
3345.21 of the Revised Code are hereby repealed. 366

Section 3. This act shall be known as the "Forming Open 367
and Robust University Minds Act," or the "FORUM Act." 368