



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: House Bill 796 – Higher Education - Freedom of Speech on Campus - Protection (Forming Open and Robust University Minds (FORUM) Act)

SPONSOR: Delegate Grammer

HEARING DATE: March 10, 2020

COMMITTEE: Appropriations

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: OPPOSE

The Office of the Prince George's County Executive **OPPOSES** House Bill 796, which establishes that any outdoor area located on any campus of a public institution of higher education must be considered a public forum. The bill also restricts public institutions from designating areas of a campus where expressive activities are prohibited.

As stated in the Preamble of the bill, each institution of higher education in the State “shall ensure free, robust, and uninhibited debate and deliberation by students on or off campus.” Each public institution of higher education may constitutionally meet this requirement by imposing “reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions ‘are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.’”¹ And, for the purposes of the First Amendment free speech guarantee, a public institution is a limited public forum—a “special type of enclave”—among the public fora classifications.²

This bill addresses an issue that has not arisen in this State, as a direct response to recent press regarding restrictions on controversial free speech on campuses of colleges and universities. In response, this bill suggests that any and all free speech should be conducted anywhere on a college campus without regard for the learning environment. The requirements in this bill counter what is constitutionally

¹ *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288 (1984)) (emphasis added).

² *ACLU Student Chapter-Univ. of Maryland Coll. Park v. Mote*, 321 F. Supp. 2d 670, 679 (D. Md. 2004).

permissible by shifting public institutions from a limited public forum status to a traditional public forum status, which does not comport with Supreme Court precedent.

As one of Maryland's public institutions of higher education and a limited public forum, Prince George's Community College (PGCC) is one of the State's free speech "enclaves." Nonetheless, PGCC is a proponent of free speech and supports free speech, as constitutionally permissible. First, PGCC must provide a learning environment that is not unduly disrupted. To carry out this responsibility, the campus has designated areas where protected speech can take place. Second, PGCC provides ample alternative channels for free speech. PGCC permits access to assembly halls, conference rooms, and other identified open spaces.

As this bill seeks to alter what is constitutionally permissible, the Office of the Prince George's County Executive **OPPOSES House Bill 796** and asks for an **UNFAVORABLE** report on this legislation.