

February 17, 2010

The Undergraduate Student Government Association
3400 N. Charles Street
Mattin Center, Offit Building
Baltimore, MD 21218
Sga@jhu.edu

Ronald J. Daniels
President, Johns Hopkins University
Office of the President
242 Garland Hall
3400 N. Charles Street
Baltimore, MD 21218

Re: Higher Education Speech Bill

Dear President Daniels:

We are writing to ask you, on behalf of the university, to support Maryland H.B. 677/ S.B. 805, the Free Speech at Nonpublic Institutions of Higher Education Bill. The free speech rights of students at this university are not fully protected under the law. We currently have a de facto “speech code,” that bans “rude or disrespectful behavior,” and allows the university to punish students for merely expressing views that are controversial. The infringement of 1st Amendment rights hurts the cause of academic freedom at our university and has a chilling effect upon all forms of speech.

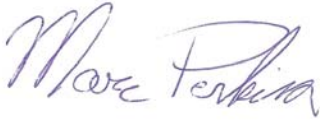
The bill helps address this issue by specifically prohibiting disciplinary action against students for exercising rights protected under the 1st Amendment or the Maryland constitution at private universities in Maryland. It ties this requirement to the Sellinger program which gives state funding to qualifying private universities in Maryland. The bill allows affected students to bring civil suits against institutions that punish them for constitutionally protected speech.

Significantly for this university, the law actually ensures that federally mandated harassment codes comply fully with the 1st Amendment. This allows only true instances of harassment, under the law, to be prosecuted by the university. The bill does not force speech on the part of this university. The university is still free to denounce actions and speech with which it disagrees. However, the law bars it from the act of disciplining a student for merely exercising his 1st Amendment rights.

Our Undergraduate Conduct Code binds us to “protect the university as a forum for the free expression of ideas.” Supporting this law will allow the university to be held accountable to these goals. We realize that the creation of a law may seem like an extreme step; but sometimes a neutral, outsider arbiter is needed to keep an institution honest. It is our belief that this bill is in the best interests of both the university and the undergraduates that we represent.

We hope that you will consider supporting this bill in the legislature.

Sincerely,

A handwritten signature in blue ink that reads "Marc Perkins". The signature is written in a cursive style with a large, looped initial "M".

Marc Perkins
President, Student Government Association
On behalf of the Undergraduate Student Government Association

Via hard copy and email

Cc: Thomas S. Lewis, Interim Vice President for Government, Community, and Public Affairs

Enclosure

HOUSE BILL 677

F5, F2

0lr1904
CF 0lr2716

By: **Delegates Shank, Dwyer, Elliott, Frank, George, Haddaway, Jennings, Krebs, Miller, Myers, Norman, Schuh, Serafini, and Stocksdale**
Introduced and read first time: February 4, 2010
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Nonpublic Institutions of Higher Education – Free**
3 **Speech**

4 FOR the purpose of prohibiting, under certain circumstances, certain nonpublic
5 institutions of higher education from making or enforcing certain rules
6 subjecting students at the institution to disciplinary sanctions on the basis of
7 conduct that is speech or other communication; authorizing certain students to
8 bring a civil enforcement action for certain relief in a certain court; authorizing
9 the court to award attorney's fees to a prevailing plaintiff under certain
10 circumstances; providing for the application of this Act; specifying that this Act
11 does not authorize the prior restraint of certain speech; specifying that this Act
12 does not prohibit an institution from imposing discipline for certain acts, subject
13 to a certain condition; specifying that this Act does not prohibit an institution
14 from adopting and enforcing rules and regulations to prevent hate crimes
15 against students at the institution, subject to certain conditions; and generally
16 relating to the regulation of speech at certain nonpublic institutions of higher
17 education.

18 BY adding to
19 Article – Education
20 Section 17–108
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2009 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Education**
26 **17–108.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **(A) AN INSTITUTION THAT QUALIFIES FOR AID UNDER THIS SUBTITLE**
2 **MAY NOT MAKE OR ENFORCE A RULE THAT SUBJECTS A STUDENT ENROLLED AT**
3 **THE INSTITUTION TO DISCIPLINARY SANCTIONS BASED SOLELY ON CONDUCT**
4 **THAT IS SPEECH OR OTHER COMMUNICATION THAT, WHEN ENGAGED IN**
5 **OUTSIDE THE CAMPUS OR OTHER FACILITY OF THE INSTITUTION, IS PROTECTED**
6 **FROM GOVERNMENTAL RESTRICTION BY THE FIRST AMENDMENT TO THE**
7 **CONSTITUTION OF THE UNITED STATES OR BY THE MARYLAND CONSTITUTION.**

8 **(B) (1) A STUDENT ENROLLED AT AN INSTITUTION AT THE TIME THAT**
9 **THE INSTITUTION MAKES OR ENFORCES A RULE PROHIBITED UNDER**
10 **SUBSECTION (A) OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT OF**
11 **COMPETENT JURISDICTION FOR INJUNCTIVE OR DECLARATORY RELIEF, AS**
12 **DETERMINED BY THE COURT TO BE APPROPRIATE.**

13 **(2) ON MOTION, THE COURT MAY AWARD ATTORNEY'S FEES TO A**
14 **PREVAILING PLAINTIFF IN AN ACTION BROUGHT UNDER THIS SECTION.**

15 **(C) TO THE EXTENT THAT THE APPLICATION OF THIS SECTION WOULD**
16 **NOT BE CONSISTENT WITH THE RELIGIOUS TENETS OF AN INSTITUTION**
17 **CONTROLLED BY A RELIGIOUS ORGANIZATION, THIS SECTION DOES NOT APPLY**
18 **TO THE INSTITUTION.**

19 **(D) THIS SECTION DOES NOT:**

20 **(1) AUTHORIZE THE PRIOR RESTRAINT OF STUDENT SPEECH;**

21 **(2) PROHIBIT AN INSTITUTION SUBJECT TO THIS SECTION FROM**
22 **IMPOSING DISCIPLINE FOR HARASSMENT, THREATS, OR INTIMIDATION, UNLESS**
23 **THE ACT IS PROTECTED BY THE CONSTITUTION OF THE UNITED STATES OR THE**
24 **MARYLAND CONSTITUTION; OR**

25 **(3) PROHIBIT AN INSTITUTION SUBJECT TO THIS SECTION FROM**
26 **ADOPTING RULES OR REGULATIONS THAT ARE DESIGNED TO PREVENT HATE**
27 **CRIMES, AS SPECIFIED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL LAW**
28 **ARTICLE, FROM BEING DIRECTED AT STUDENTS IN A MANNER THAT DENIES ANY**
29 **STUDENT FULL PARTICIPATION IN THE EDUCATION PROCESS, PROVIDED THE**
30 **RULES AND REGULATIONS CONFORM TO STANDARDS ESTABLISHED FOR**
31 **CITIZENS GENERALLY UNDER THE FIRST AMENDMENT TO THE CONSTITUTION**
32 **OF THE UNITED STATES AND THE MARYLAND CONSTITUTION.**

33 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
34 **October 1, 2010.**